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Refugee Reports

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BOARD OF IMMIGRATION APPEALS TAKES NARROW VIEW OF "PERSECUTION" IN CONTEXT OF CIVIL WAR

A reasonable person may have a "well-founded fear" of the harm that may befall him if returned to his home country, especially a country embroiled in civil war, such as El Salvador. But is that harm, even if directed against him personally, "persecution"? This is the question currently being considered by the federal Board of Immigration Appeals, the highest administrative level of appeal for asylum cases.

A "well-founded fear of persecution" is the legal standard for establishing an asylum claim. In its landmark Cardoza-Fonseca decision in 1987, the Supreme Court clarified the phrase "well-founded fear." But the Supreme Court did not pay particular attention to the word "persecution." Now, the federal Board of Immigration Appeals (BIA) has issued a series of recent decisions suggesting a narrowing interpretation of "persecution" that, in effect, creates a more difficult standard to establish an asylum claim, especially in the context of civil war.

Several key decisions involve Salvadoran asylum claims. Persons thrust into participation on either side of the Salvadoran civil war, even against their will, and even if they consciously fled the conflict and still fear for their safety, are now less likely to find asylum in the United States, following these BIA decisions.

In the context of civil war, the BIA ruled, to be endangered for being a policeman or a guerrilla is not, by itself, sufficient ground to establish a well-founded fear of persecution. A case involving a former member of the national police from El Salvador, Matter of Fuentes, and another involving a man forced to join the guerrillas, Matter of Maldonaldo-Cruz, are two sides of a coin.

"A threat to harm or kill a deserter from a guerrilla organization operating in a country does not constitute persecution," said the BIA in Maldonaldo-Cruz. In Fuentes, it determined that "dangers faced by policemen as a result of that status alone are not ones faced on account of race, religion, nationality, membership in a particular social group, or political opinion" --the legal grounds for conferring asylum.

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Those dangers arise, said the Board, "from the nature of their employment and domestic unrest rather than 'on account of' immutable characteristics or beliefs."

Fuentes, a 33-year-old, who had been in the national police since the age of 12, said that the government was unable to protect him and that he fled El Salvador to avoid being killed. He testified that many people from his hometown had joined the guerrillas, that they knew him by name, knew he was a member of the national police, and had threatened him personally.

The BIA noted that "violence appears inherent to such revolutionary struggles," so that if the United States were to determine that combatants in a guerrilla war could be considered as victims of persecution, then it would follow that the attackers on the other side were engaged in persecution. "Virtually all participants on either side of an armed struggle could be characterized as 'persecutors' and would thereby be ineligible for asylum or withholding of deportation."

On the other hand, the BIA did determine that being a former policeman is an "immutable characteristic," and could, therefore, lead to persecution on account of political opinion or membership in a particular social group. However, the BIA found that Fuentes had not "clearly developed" the reasons for his fear, in part, because "the evidence the respondent presents is directed to so local an area of his country of nationality."

"Although the respondent expressed a general fear of returning to El Salvador," the BIA stated, "his specific evidence focuses on the danger he would face if he returned to his hometown, where he is known by the guerrillas and the conflict is still ongoing."

Threats and Violence Not Persecution in Civil War Context Similar assumptions colored the BIA's ruling in the case of the former guerrilla. "Historically, civil wars or revolutions have always contained strong currents of violence, threats, destruction, intimidation, and indeed ruthlessness," noted the BIA in Maldonaldo Cruz. "Individuals harmed by such violence or threats of harm in a civil war are not necessarily persecuted 'on account of' the five categories enumerated in...the Act."

Maldonaldo-Cruz had been forcibly recruited into the guerrillas and then escaped. His claim for asylum was based on his fear of persecution at the hands of either the guerrillas or the government. The BIA said that it was not interested in determining whether or not he was in danger, "but whether the harm the respondent fears is on account of 'political opinion'."

The Board reasoned that a person could succeed in showing that he had a well-founded fear of being harmed, but that such a well-founded fear would not necessarily lead to a grant of asylum if the cause of danger was "over purely personal matters or those fleeing general conditions of violence and upheaval."

The BIA said that its analysis hinged to a certain extent "on assumptions one may have concerning the nature of the guerrillas' struggle occurring in El Salvador and on the nature of guerrilla struggles in general." It went on to say that the guerrillas "must impose discipline" and that an important tool of discipline "is the punishment of deserters."

Although the reasoning of the two cases is parallel in many respects, there is no intimation in Maldonaldo-Cruz that being a "former guerrilla" is an immutable characteristic for which a person--such as the former policeman in Fuentes--could be subject to persecution.

"Political Offense" Exception to Extradition Suggests Violence in Furtherance of Civil War May Not Be Persecution One BIA member, Michael J. Heilman, wrote a separate concurring opinion in Matter of Maldonaldo-Cruz in which he suggested that the "political offense" exception in extradition law could be applied in these cases. Heilman criticized what he perceives as a "drift in the adjudication of asylum cases toward a simple and superficial risk analysis, in which the disposition of claims has depended entirely upon whether the applicant has presented a convincing case that he might be harmed if he returned to his native land."

Instead, Heilman proposed using the standard applied in the "political offense" exception to extradition, which determines that acts, however violent, committed in the furtherance of objectives in civil war or rebellion, if intrinsically related to the struggle, are not based on a desire to persecute. "If...the threatened act would

COURT REVERSES BIA INTERPRETATION OF "REFUGEE"

The U.S. District Court for the Southern District of New York recently reversed a BIA denial of asylum in the case of a man involved in a coup attempt against the government of Ghana. "The decision of the BIA must be reversed as a matter of law," wrote Judge Kimba M. Wood, "because the BIA's interpretation of the definition of 'refugee' contravenes the intent of Congress as reflected in the [Refugee] Act [of 1980] and in the Act's legislative history."

Nana Asante Dwomoh, a sergeant in the Ghanaian army, supported a coup against the military government of Ghana. The morning before the coup was to take place, he was arrested, beaten, and imprisoned for a year. After escaping from prison, he fled to the United States. In stating the facts of the case, the court observed, "There is every indication that, if returned to Ghana, Mr. Dwomoh will again be physically abused and possibly may be executed."

The BIA upheld an immigration judge's denial of asylum on the basis that the acts Dwomoh engaged in did not qualify him as a "refugee." The BIA determined Dwomoh to be "a fugitive from justice who faces prosecution for his role in an unsuccessful coup d'etat."

On the question of whether the beatings and one year's detention of Dwomoh without permitting him contact with the outside world constitute "persecution on account of...political opinion," the BIA stated, "he was subjected to mistreatment due to his refusal to provide information about the attempted coup d'etat, not because of any political view he may hold."

The BIA compared Ghana to the United States, saying that both countries have the right to enforce their laws against treason and insurrection, even by imposition of the death penalty.

Judge Wood pointed out that Ghana, unlike the United States, has no procedure for peaceful change of government, so that "a coup may be the only means by which political change can be effected."

Wood observed, "No United States citizen is punished for treason without a formal charge, and the opportunity for a full trial and appeal. Mr. Dwomoh has no such protections; he might be executed without ever having been charged, no less tried."

In response to the BIA position that Dwomoh had not expressed political opinions critical of the Ghanaian regime prior to the coup attempt, and that "he is not facing prosecution for his political views but rather for the...act of trying to overthrow the Government of Ghana," the district court found that "the BIA ignored the reality that in certain countries individuals who express opposition to the government are jailed, and in certain countries, an attempted coup is the only way to change the government." Judge Wood continued, "In such a country, a person desirous of changing the government would be ill advised to express his opposition publicly before attempting a coup. In that context, his political expression is embodied in his political act."

The court determined that a coup attempt is a form of expression of political opinion within the statutory definition of "refugee" in countries where no procedures exist for peacefully changing governments, and where those who express views critical of the government can be arrested and held incommunicado for long periods.

"When a participant in an attempted coup has been beaten or tortured during detention, there is no doubt that he is being persecuted on account of his political opinion," Judge Wood opined.

On October 13, Judge Wood reversed the BIA decision and remanded the case to the BIA for any additional findings of fact and the application of the appropriate definition of "refugee." Noting that Dwomoh is presently incarcerated, and has been detained for more than 650 days, the court directed the BIA to move for expedited consideration of the case.

come within the 'political offense' exception to extradition," Heilman wrote, "then there is powerful reason to find that the threatened act does not constitute persecution."

Bar to "Persecutors" Loosened in Context of Civil War As a corollary to this thinking, the BIA is finding less ground for determining an asylum applicant to be ineligible for asylum on the grounds that he or she engaged in the persecution of others. In the past, the government has argued that a person's membership in a revolutionary group, such as the Iranian Mujahedin, makes them ineligible for consideration for a grant of asylum because they may have "ordered, incited, assisted, or otherwise participated" in the persecution of any person. The government has consistently argued that the burden of proof is on the applicant to show that he hasn't participated in such persecution.

In another recent case, however, Matter of Rodriquez-Majano, the BIA remanded a case to an immigration judge who had ruled a Salvadoran ineligible for asylum for having assisted in persecution.

Rodriquez-Majano testified that he was forced to join the guerrillas, but deserted after having served with them for a two-month period. He testified that shortly after his desertion from the guerrilla forces, he was arrested by the police, interrogated, beaten, and tortured with electric shocks. He expressed a fear of persecution both at the hands of the government and the guerrillas.

In this case, the only issue before the BIA was whether the immigration judge correctly ruled that the alien was ineligible for asylum for having engaged in the persecution of others during his brief stint with the guerrillas. The BIA found that "mere membership in an organization, even one which engages in persecution, is not sufficient to bar one from relief, but only if one's action or inaction furthers that persecution in some way. It is the objective effect of an alien's actions which is controlling." Continuing the line of reasoning in the other recent cases before it, the BIA said, "Harm which may result incidentally from behavior directed at another goal, the overthrow of a government or, alternatively, the defense of that government against an opponent, is not persecution. In analyzing a claim of persecution in the context of a civil war, one must examine the motivation of the group threatening harm."

The case has been remanded to the immigration judge, and now must be considered on the merits of the claim to a well-founded fear of persecution. Given the similarity to Matter of Maldonaldo, Rodriquez-Majano is likely to have an uphill battle to establish that the threats to his life and freedom, coming as they do in the context of the civil war, will be "persecution" to the satisfaction of an immigration judge or the BIA.

BIA Takes Narrower View of 'Persecution', 'Political Opinion' These recent decisions continue a settling back of sediment following the the Supreme Court's stirring up of the mud in its historic Cardoza-Fonseca decision in March 1987 which decisively rejected the BIA position that a "well-founded fear" was not meaningfully different from a "clear probability" of persecution (see Refugee Reports, Vol. VIII, No. 3). By finding, on the contrary, that the test of a well-founded fear is a "reasonable possibility" of persecution, the Supreme Court established an easier standard for asylum applicants to meet. Following the Supreme Court's opinion, the BIA reinterpreted the well-founded fear of persecution standard in Matter of Mogharrabi to mean what a reasonable person would fear in the same circumstances as the asylum applicant if returned to his or her country, even though the likelihood of persecution could be significantly less than clearly probable (see Refugee Reports, Vol. VIII, No. 7).

But the Supreme Court left an opening for more narrow interpretations in Cardoza-Fonseca by its own failure to define more precisely the key phrase "well-founded fear of persecution," saying that it "can only be given concrete meaning through a process of case-by-case adjudication." So, as early as Mogharrabi, the BIA was quick to point out that aliens who establish a well-founded fear of persecution would not necessarily be granted asylum unless they could establish that the persecution was based on one of the five enumerated grounds, and that "aliens fearing retribution over purely personal matters, or aliens fleeing general conditions of violence and upheaval in their countries, would not qualify for asylum."

According to Deborah Anker, a lecturer in immigration law at Harvard Law School and co-chair of the refugee and asylum committee of the American Immigration Lawyers Association (AILA), "In recent months the Board has based most denials on a narrowing interpretation of the meaning of political opinion and persecution."

She said that the BIA's tendency is to focus on individual actions and motivations in isolation from their political context. Anker cites another case, Desir v. INS, in which the BIA characterized beatings, imprisonment, and assault by Haitian Ton Ton Macoutes for purposes of extortion as a personal conflict. The Ninth Circuit Court of Appeals overruled the BIA saying, "the Haitian government under Duvalier operated as a 'kleptocracy, or government by thievery, from the highest to the lowest level. The Ton Ton Macoutes... formed the heart of the system.... Because the Macoutes are an organization created for political purposes, they bring politics to the villages of Haiti. To challenge the extortion by which the Macoutes exist, is to challenge the underpinnings of the political system."

Federal Court Differs With BIA on Applying New Asylum Standard It is not surprising that the Ninth Circuit overruled the BIA in this case. In fact, the Ninth Circuit has repeatedly differed with the Board in its interpretations of persecution and political opinion. In another case involving a Salvadoran fearing persecution at the hands of guerrillas who had forcibly tried to recruit him, Arteaga v. INS, the Ninth Circuit chided the BIA for paying mere "lip service" to the Supreme Court's Cardoza-Fonseca ruling, saying, "the BIA decision here fails to make explicit the more generous standard." (See Refugee Reports, Vol. IX, No. 4.)

In returning the case to the BIA and directing it to apply the more generous standard, the Ninth Circuit said, "A specific verbal threat by the guerrillas directed at an individual whose identity and residence are known to the guerrillas is sufficient to create a well-founded fear."

While the Ninth Circuit also recognized in Bolanos-Hernandez v. INS that neutrality in the face of forced recruitment from either side in a civil war situation like El Salvador constitutes political opinion for which a reasonable person could have a well-founded fear of persecution, the BIA seems to disagree.

In Matter of Fuentes the BIA explicitly stated that it will not apply the rulings of the Ninth Circuit outside its jurisdiction. "We do not find it appropriate to apply the Ninth Circuit's decision in that case [Bolanos-Hernandez] in the Fifth Circuit where this case [Fuentes] arises. We know of no Fifth Circuit case which agrees with the rationale of Bolanos-Hernandez."

Does Civil War Require a Higher Standard of Persecution? The editors of the immigration law weekly, Interpreter Releases, commented that the BIA found no persecution in the Fuentes case because of the overall level of violence in El Salvador.

"This is a rehash of the Acosta and Sanchez and Escobar paradox," said the editors, "the higher the actual danger of death, violence and terror, the lower the chance of proving fear of persecution, according to the Board, because it is harder to show a person is 'singled out' for persecution." (See Refugee Reports, Vol. VII, No. 11 and Vol. VIII, No. 7 for the Acosta and Sanchez and Escobar cases.)

Interpreter Releases went on to comment that the BIA reasoned in Fuentes "almost as if Cardoza-Fonseca and Matter of Mogharrabi had not been decided in the interim."

Not only do these situations suggest a higher standard for asylum seekers to meet, but also have the effect of lowering the standards the international community has come to expect of governments in the observance of human rights.

"As long as the BIA can say that a government has a legitimate national security interest, it is ready to excuse almost any conduct," said Carol Wolchok, director of the Immigration Law Implementation Project of the American Bar Association (ABA). Wolchok said this approach undermines the idea that governments should act within established limits. "It becomes legitimate in the context of a military situation for governments to kill opponents, to ignore totally due process before detaining, interrogating, and punishing."

Court Overturns BIA on Salvadoran Draft Evader Refusing to Serve in Army that Commits Atrocities Recently, the U.S. Court of Appeals for the Fourth Circuit directly addressed the issue of human rights violations in the context of civil war in a case involving a man who fled El Salvador in order to avoid serving in an army which he termed cruel and unjust.

The case, M.A. v. INS, involves the appeal of the BIA's denial of a Salvadoran's motion to reopen a deportation proceeding to raise an asylum claim. M.A. (initials were used, at his lawyer's request, to preserve his anonymity) fled El Salvador in 1982 to evade conscription in the Salvadoran military, citing atrocities committed by the army and the consequences he might suffer for his failure to serve.

The BIA denied M.A.'s motion to reopen his hearing, saying that he had not presented evidence to show the likelihood of persecution based solely on his failure to serve in the military, or to show that "his predicament is appreciably different from the danger facing all the population."

M.A.'s case was complicated by the fact of his draft evasion, since conscription is a generally recognized right of governments, and draft evasion is usually looked upon as a legitimate matter for prosecution, not persecution. A draft evader is only considered to be a refugee when the nation's enforcement of its laws against evasion of military service are disproportionately severe to the point of persecution, or when the military of the government in question commits acts condemned by the international community.

The BIA rejected M.A.'s claim that he would be forced to associate with a military force that commits internationally condemned acts, because he had not shown that he personally would be required to engage in such inhuman conduct in his military service and that there has been no official condemnation of the Salvadoran military or government.

The Fourth Circuit said the BIA was wrong to require M.A. to wait for international bodies, such as the United Nations, to condemn El Salvador for atrocities committed by its army. "The Geneva Conventions of August 12, 1949 represent the international consensus regarding minimum standards of conduct during wartime. They include the following, as to all of which M.A. has presented evidence to show their contravention by the Salvadoran military: the obligation to treat humanely persons taking no active part in hostilities, and the prohibition of certain acts, including violence to life and person, specifically murder of all kinds, mutilation, cruel treatment, and torture; and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court."

BIA's Standard Too Harsh, Says Fourth Circuit The Fourth Circuit observed, "We think the Board has made the petitioner's burden unduly harsh. An applicant for asylum should not be required to prove that he would be compelled to commit atrocities. It is unlikely that such a standard could ever be met."

The Fourth Circuit then observed that atrocities are more likely to occur in civil war situations. "Whether an individual will be associated with condemned conduct will depend largely on how widespread it has become, and it follows that the likelihood that an individual would be forced to participate in atrocities increases as the atrocities become more widespread. We therefore think that the appropriate inquiry is to consider the pervasiveness of atrocities. We think also that petitioner has presented evidence from a wide variety of sources to show that atrocities committed against the civilian population by the military are frequent and widespread."

BIA Decisions Tilt Against Salvadorans, Critics Suggest The Fourth Circuit also pointed out that the BIA appeared to treat M.A., a Salvadoran draft evader, more harshly than Afghan draft evaders similarly situated. In Matter of Salim, the BIA determined that an Afghan draft evader had a well-founded fear of persecution if deported to Afghanistan on the ground that Salim was refusing to serve in an army which was not controlled by his own government, but by the Soviet Union. Among other arguments the BIA had found on behalf of Salim was the Soviet practice of "dragooning and forcibly impressing" men and boys into the armed forces. The Fourth Circuit said it had difficulty distinguishing the facts of Salim and M.A. "M.A. has presented evidence which shows

Young boys being forcibly conscripted in El Salvador.
The Christian Science Monitor/R. Norman Matheny

that the Salvadoran military engages in lawless impressment of young men, and that it coerces them to commit acts against their fellow citizens which contravene the Geneva Conventions."

Then the Fourth Circuit went to the heart of the charge that BIA decisions with respect to Salvadorans indicate a political bias that Congress had intended to correct in 1980 when it passed the Refugee Act, striking ideological standards from asylum determinations.

"We think it would be contrary to the spirit of the Refugee Act of 1980," wrote the Fourth Circuit, "to distinguish between atrocities committed by domestic forces and those committed by forces under foreign control, much less those under the control of a specific foreign government, e.g., the Soviet Union." The Fourth Circuit specifically cited the section of the Refugee Act requiring the Attorney General "to establish a uniform procedure for passing upon an asylum application," in contrast to the earlier law making asylum available to those fleeing communist-dominated regimes. "Thus a major result of the Refugee Act of 1980," the Fourth Circuit said, "was to eradicate the disparity of treatment based on geography."

Anker suggests that these recent Board decisions "raise long-standing problems concerning disparate standards in asylum adjudication." She said, "The Board found the actions of the Salvadoran government were legitimate without any ruling regarding the human rights record of the Salvadoran government and governmental military and paramilitary forces."

She said, "It purported to make a neutral and general judgment about the legitimacy of governmental action. Yet in other contexts, Iran and Afghanistan, for example, the Board clearly has made judgments regarding the political legitimacy of government and opposition actions."

Wolchok of the ABA also sees evidence of bias against Salvadorans in these decisions. "Why is it that the Salvadoran cases denying asylum get published [thus becoming precedent decisions]?" she asked. Wolchok observed that the BIA has been reluctant to publish decisions in the past, but now "is publishing anything under the sun." She suggested that it will be harder for immigration judges to grant asylum. "When the factual and legal issues are similar, they will have to cite these precedent decisions," she said. "And the Board will be able to go through these cases quickly and affirm denials."

Application of Geneva Convention to Asylum

One of the more interesting features of M.A. is the discussion of the applicability of the Geneva Convention in the U.S. asylum context. The issue was also raised in Matter of Medina, a case recently decided by the BIA, in which it rejected the applicability of the Geneva Convention in an immigration judge's decision whether to withhold deportation.

The case involves a Salvadoran woman who sought withholding of deportation under provisions of the Fourth Geneva Convention, which protects the rights of civilians in time of war. The BIA said that the Fourth Geneva Convention does not refer to repatriation of displaced persons, that it is limited, with one exception, to international armed conflicts, not civil wars, and that using it as a remedy in deportation proceedings would fall outside the jurisdiction of an immigration judge or the BIA.

Although stating that application of the Geneva Convention to protect war refugees from deportation is outside its jurisdiction, the BIA noted that Medina "and those in her situation are not without avenue to the relief sought. In fact, the available approaches have been pursued. Extended voluntary departure for Salvadorans has been sought before the Attorney General and Congress. To date, however, such attempts have not been successful."

Craig Mousin, director of the Midwest Immigrant Rights Center in Chicago, said that the BIA decisions misread the political context for maintaining sovereign authority. "With a country like Guatemala," he said, "a reasonable person would have to question the legitimacy of a sovereign authority that commits such gross violations of human rights." Mousin said, "In low intensity warfare, as currently found in nations from Afghanistan to El Salvador, civilians become the targets for persecution."

Update

- On October 8, Thai authorities rounded up 135 Burmese students seeking asylum at a Buddhist monastery in the town of Mae Sot and forced them back across the border, according to a report in the Far Eastern Economic Review. The students reportedly joined compatriots at Thi Baw Bo camp, which is run by the Karen National Union, a rebel minority group seeking freedom from the central government in Rangoon.

An estimated 5,000-10,000 Burmese students and other dissidents have fled to the Thai border since September 18, when Gen. Saw Maung seized power in a military takeover and began a crackdown on protesters calling for democratic change. Some entered Thai territory, while many remained on the border to join minority resistance groups--the Mon, Karen, Shan, and Kachin--in their fight against the Rangoon government.

At a September 22 press conference, Thai foreign minister Sitthi Sawetsila said that Burmese asylum seekers would be questioned but would not be pushed back. Rather, he said, they would be allowed to stay in Thailand temporarily until the situation improves in Burma.

Meanwhile, almost 600 Vietnamese boat refugees pushed off from Indonesia have landed in Malaysia during the first nine months of 1988, according to sources in Malaysia. The latest known incident occurred on September 19, when two boatloads totalling 190 people were pushed off from Indonesia near Matak Island. Pushbacks of Laotian and Vietnamese refugees also continue in Thailand, according to sources there. Close to 200 Hmong were pushed back to Laos during a three-day period in July, and more than 2,300 Vietnamese have been pushed off from Thailand since January 1988, the sources revealed.

- More than 800 refugees from the Mesa Grande camp in Honduras repatriated to El Salvador November 6, according to the

Refugee Reports
1025 Vermont Avenue, N.W., Suite 920
Washington, D.C. 20005
Tel: (202) 347-3507
Fax: (202) 347-3418

CORRECTION NOTICE:

A printing error in the October 1988 issue of Refugee Reports resulted in the chart on page 16 not having a title. We apolcgize for that error, and enclose a corrected copy for your use.

U.S. REFUGEE ADMISSIONS, 1975-1989

	Actual Admissions													Estimated	
	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	Admissions 1988	1989 Ceiling
E. ASIA	135,000	15,000	7,000	20,574	76,521	163,799	131,139	73,522	39,408	51,960	49,970	45,454	40,112	28,000 7,000(ODP)	28,000 25,000(ODP)
E. EUROPE	1,947	1,756	1,755	2,245	3,393	5,025	6,704	10,780	12,083	10,285	9,350	8,713	8,606	27,000	24,500
SOVIET UNION	6,211	7,450	8,191	10,688	24,449	28,444	13,444	2,756	1,409	715	640	787	3,694		
LATIN AMERICA	3,000	3,000	3,000	3,000	7,000	6,662	2,017	602	668	160	138	173	315	2,800	3,500
AFRICA	0	0	0	0	0	955	2,119	3,326	2,648	2,747	1,953	1,315	1,994	1,500	2,000
NEAR EAST/ SOUTH ASIA	0	0	0	0	0	2,231	3,829	6,369	5,465	5,246	5,994	5,998	10,107	8,500	7,000
TOTALS	146,158	27,206	19,946	36,507	111,363	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,828	75,450	90,000 + 4,000* 94,000

*Admissions ceilings since FY 87 have included an unallocated reserve for "contingent refugee admission needs," to be used only after consultation with Congress, and only to the extent that private sector funding is available to support admissions using the reserve.

Source: U.S. Department of State.

BEST AVAILABLE COPY

Interfaith Office on Accompaniment. The refugees, traveling in 26 buses and 89 trucks, returned to their homes in Santa Marta in the department of Cabanas. Most had resided in the closed camp in Honduras for the past eight years. This is the third mass repatriation since October 1987 (see Refugee Reports, Vol. VIII, No. 10 and Vol. IX, No. 9), in which a total of more than more than 6,000 refugees have returned. Following this latest repatriation, the population of Mesa Grande has been reduced to 3,752. This leaves 13,286 UNHCR-registered Salvadoran refugees in Honduras, in contrast to the 21,000 Salvadoran refugees registered by UNHCR in 1987.

° Legislation to reauthorize the resettlement provisions of the Refugee Act of 1980 for three years was passed by the House of Representatives on August 8, but was never voted on by the Senate. Although House and Senate conferees had agreed to support the Senate version of the reauthorization bill (S.2605), the measure never reached the Senate floor for a vote.

° On November 1, President Reagan signed into law the Genocide Convention Implementation Act of 1988. The act creates a new federal crime of genocide or attempted genocide for any person who attempts to destroy any national, ethnic, racial, or religious group--in whole or in part--through murder, serious bodily injury, mental or physical torture, prevention of members of the group from having children, or forcible removal of children from the control of any member of the group.

° The Family Support Act of 1988 (PL 100-485), which was enacted on October 13, requires all states to institute JOBS programs by October 1990. The aim of the JOBS program, according to a government official with the Family Support Administration, is to assist long-term, or potential long-term, welfare recipients to find jobs by providing them with education, training, and employment-related services.

Among other provisions, the new welfare reform act requires states to provide 12 months of both transitional child-care assistance and Medicaid benefits for most families who leave public assistance rolls as a result of employment.

"We see no immediate effect" of the law on refugee programs, the official told Refugee Reports, but predicted that the impact would be significant by 1990.

° On October 3, the House defeated a bill (H.R. 5164) that would have given Mariel Cuban detainees the right to a hearing before an administrative law judge to determine whether they can be released from detention, with due process guarantees, including the right to call witnesses, test evidence, and be provided with legal counsel. The bill would also have placed the burden of proof on the government to show by a preponderance of the evidence that the alien, if released, would pose a threat to the community or would violate the conditions of his release. The bill did not address whether or not individual Mariel detainees should be allowed to remain in the United States.

Although the bill had strong bipartisan sponsorship and was passed unanimously by both the Subcommittee on Immigration, Refugees, and International Law and the full Judiciary Committee, it was defeated by a 144-to-271 vote. The defeat was somewhat mysterious, as no one even spoke in opposition to the measure.

° As of October 1, 1988, transportation and visa fees must be paid in advance for all Indochinese entering the United States on immigrant visa petitions, according to the State Department. Payment of these fees is to be made to the Intergovernmental Committee for Migration (ICM), which arranges reduced fare transportation, visas, and medical clearances for Indochinese refugees and immigrants.

No payments should be made in advance of official State Department notification, according to an ICM statement. "Petitioning relatives in the United States will receive written notification from the Department of State when their family members are scheduled for their U.S. interviews and will be informed of the costs, which must be prepaid by certified check or money order," the statement said. The visa fee is currently $150 per person and transportation costs depend on the itinerary.

° The Immigration and Naturalization Service apprehended 940,670 undocumented aliens on the southern border during FY 88, a 16 percent decrease since 1987, and 42 percent lower than 1986, according to the INS.

Recent Developments

CALIFORNIA'S SOUTHEAST ASIANS ENTER THE POLITICAL ARENA

[This article was written by Duc Qui Nguyen, a freelance journalist in the San Francisco Bay area. He was assisted by Sara Colm, of the Tenderloin Times.]

They talk in the lingo of politicians and are familiar with the issues of the day. They show up at politicians' doors--and are received--with regular frequency.

They are the leaders of California's latest immigrants. Today, 13 years after the political changeovers in Vietnam, Laos, and Cambodia brought the first Southeast Asian refugees to the United States, they are now emerging as significant players in the political arena.

"With each new immigrant wave, there is a time for political coming out; that time is now for the Southeast Asian refugees," noted California Senator Art Torres, a Democrat and chairman of the Joint Committee on Refugee Resettlement, International Migration and Cooperative Development.

"These are young, growing, and ambitious communities," added Torres, who recently returned from a trip to Vietnam to discuss resettlement issues. "Their political emergence is important, and along with Latino and other Asia-Pacific groups, they are going to be the driving force behind California's future."

Entering the Arena Of the estimated 800,000 Southeast Asians in the United States, about half have settled in California. While most are in the central and southern part of the state, about 120,000 live in the San Francisco Bay Area.

The successes of the California refugee leaders in their drive to play an active role in the American political process have been most apparent in the last few years.

Two years ago, a Cambodian leader ran for a seat on Long Beach's City council (see Refugee Reports, Vol. VII, No. 11). Nil Hul lost, but in the process came in fourth in a field of nine candidates. "He generated considerable support from other Asian communities," said his colleague Than Pok. "If he ran now, he'd get a lot more votes and would come very close to victory."

Last year in northern California, the successful mayoral campaign of former Democratic Assemblyman Art Agnos was a perfect vehicle to harness the emerging political energy of the refugees.

As an assemblyman, Agnos had worked closely with refugees, for many years helping them organize into effective mutual assistance associations. He also supported their efforts to gain government and private funding.

When he ran for mayor, the refugees remembered the time he had spent with them, and the lessons he had given them about lobbying in Sacramento's governmental corridors. During his mayoral campaign, the refugees rallied behind him as one of the earliest politicians who advocated for them.

Refugee leaders organized themselves and participated in the campaign efforts, distributing signs and campaign literature. They also hosted various events that added about $10,000 to the Agnos campaign funds. And they voted.

Chieu Pham, a Vietnamese leader and longtime Agnos supporter, said at the time of the campaign: "A successful candidate needs two basic things, money and votes. We intend to provide both."

Chieu Pham and his colleague Nguyen Nguyen spent weeks registering Vietnamese voters in the Tenderloin area of San Francisco, home to 15,000 Southeast Asian refugees.

The effort earned Nguyen Nguyen, executive director of the Mutual Assistance Association Council, an appointment to the Commission for Community Development in the Agnos Administration. He now helps to select community organizations to be awarded funding from a federal block grant of $18 million.

The task is particularly difficult where it concerns refugee groups. "The dilemma is that not enough refugee organizations have applied for the money," said Nguyen. "They don't know how, and no one has led them through the process."

The dilemma points to an ironic situation within the political growth process among refugee groups. As seasoned leaders move themselves into politically active roles, their organizations suffer.

Bounchanh Thepkaysone, for four years an administrator of the Refugee Women's Program in San Francisco, now plays an "advisory role" to a local Lao refugee organization. "There are not enough Lao leaders," lamented Thepkaysone. "We don't have enough people who know what's going on, and who know how to work the system."

Indeed, unlike the more active Vietnamese, Laotians have not been as visible in the political arena. With 15,000 members in the San Francisco Bay area, the Laotian community only has about 1,000 who have become U.S. citizens.

"We are a smaller, less forceful community," said Chaosarn Chao, executive director of the Lao Family Community in Oakland, California. "Only last year, we started to talk to community members and encouraged them to become American citizens. This year, we've followed up with 1,000 flyers to community members, urging them to register to vote."

Chao said a lot of Laotian refugees are discouraged by the long delays at the Immigration and Naturalization Service. "Some of us have waited for two years (since applying for citizenship), but still haven't been called for an interview yet," he said.

Many Cambodians Politically Inactive

Many rank-and-file Cambodians are reluctant to get politically involved, according to Sophie Karet, who works with Cambodian refugees in San Francisco, Stockton and Modesto. Aside from Cambodian refugee leaders or those who staff social service organizations, Karet says "in general, Cambodians are not voting or participating." She attributes their passivity to the lingering effects of the brutal Khmer Rouge regime, combined with disillusionment with divisions within Cambodian factions fighting in Asia and depression over the continuous presence of Vietnamese troops in their homeland.

Other Cambodian leaders, meanwhile, seem to have had more successes. "A few years ago, people were just watching from the sidelines, but they are now more comfortable in participating in the American political process," said Than Pok, director of United Cambodian Community, a community-based agency in Long Beach, California.

"The majority of the community are following their leaders. They believe in us and support whatever we do," added Pok, who said he personally raised about $30,000 for the Dukakis presidential campaign.

More than half of the 180,000 Cambodian refugees in the U.S. live in California. Their recent entry into the business world has created a more comfortable and involved attitude toward American politics. "Cambodian business people are paying $50 to $500 per person for fundraising events these days," said Pok.

Such willingness to put out large amounts of money for fundraising events is an indication of the refugees' understanding of the political investment process. A Vietnamese refugee recently jokingly advised an audience at a Northern California college against "becoming politically active Vietnamese-Americans--it could make you very poor very fast."

Money and Votes San Jose, California reflects the most astounding change in refugee political attitudes. Long regarded as a base for conservative Vietnamese who reject participation in the American political process in favor of an anti-communist, anti-Hanoi focus, San Jose's Vietnamese population now boasts nearly 10,000 registered voters. (The Vietnamese community in San Jose is estimated to be 75,000 roughly 10 percent of the total population.)

"The switch in political focus is becoming clearer day by day," said Diem Ngo, director of the newly-formed Vietnamese Voters' Registration Project in San Jose. "More and more people are realizing that the spirit of militancy can no longer be focused on the dream of taking up arms against the Vietnamese regime."

Ngo added that political energy is now channeled "toward effective fights in Congress, to deal with issues involving the Hatfield Bill, the Refugee Reauthorization Act, or the repatriation of refugees now in Hong Kong."

So far this year, Ngo and his associates in San Jose have organized three nonpartisan workshops to educate refugees about the issues confronting them in this election.

And this year, the community has begun to look beyond issues relating strictly to refugees. "We now look at ourselves as an integral part of American society," said San Jose attorney Tiep Nguyen, who's been active with the local Republican structure. "Our concerns are not that different than that of the man next door--housing, education, taxes..."

Still, many close-to-home issues remain dominant. Both in northern and southern California, many campaigns have been organized to lobby the Reagan Administration and Congress for continued support for refugees, and to fight the possible repatriation of refugees to Vietnam and Laos from first-asylum countries in Southeast Asia.

Because of its more vocal anti-communist attitude, the Republican Party has always had a particular appeal, especially for the Vietnamese community. But over the years, as the refugees begin to focus more on their rights as a minority group within American society, they have found in the Democratic platform a more supportive and protective attitude. "Many of us have had a hard time deciding which party to support," said Nguyen.

This year, the dilemma has taken an added dimension. Most Vietnamese refugees have always opposed a rapprochement between Washington and Hanoi, concerned that relations between the two nations will only benefit the Hanoi communist leadership, and weaken their own legitimacy as refugees. But, said Diem Ngo, "the Vietnamese are now finding themselves having to oppose the Republican congressmen who, of late, have been advocating normalization of relations."

Nurturing the Grassroots Many refugee leaders admit privately that the overwhelming need for networking with other community groups and gaining access to legislators and government officials has required them to rush ahead with community causes and issues without adequate time to bring the community along.

The next big step, said Community Development Commissioner Nguyen, should be an "effort from the grassroots, to build support in the community."

American politicians are quite ready to court the potential votes of the three Indochinese communities. Just over a week before elections, Congresswoman Nancy Pelosi (D-CA.) heeded the call by refugee leaders in San Francisco to organize a hearing on conditions of refugees in camps in Asia.

Speaking after the hearings, California State Senator Milton Marks said, "We, as elected officials, must seek to educate ourselves concerning the needs of Southeast Asian refugees, in order that we may properly represent them in the state capital."

Whereas similar hearings in the past have been dominated by American social workers and officials speaking on behalf of refugees, Pelosi's was attended predominantly by Southeast Asian refugees.

The days of Vietnamese, Cambodian and Laotian elected officials may indeed not be very far away judging from the political successes so far.

"Our community has now begun to wake up to the realities and are taking a more active role," said Chieu Pham. "But the mainstreaming process will take some more time. We must continue to reach out to the community members, and coach them along."

REFUGEE BACKLOG IN THE SOVIET UNION NEARS 10,000

As of the end of October, more than 9,500 people in Moscow have been granted exit visas by the Soviet Union but are waiting for an interview with the U.S. Embassy to determine their refugee status, government officials have told Refugee Reports. With 100 new applications coming in every day and only 4,000 numbers allocated to Moscow for all of FY 89, the United States already is facing substantial backlogs in Moscow less than two months into the fiscal year.

The backlog could grow to 30,000 in the next ten months, the official said. The regional admissions ceiling for the Soviet Union/Eastern Europe in FY 89 is 24,500, of which about 6,500 numbers have been informally allocated for Eastern European admissions, according to government sources. The rest goes for Soviet refugee resettlement, either directly from Moscow or from processing points in Europe.

About 80 percent of the applicants in Moscow are Armenians, with the remainder Jews and Christian Pentecostals.

The U.S. Embassy in Moscow has been informing applicants that processing of their cases may be delayed one year or more, the official confirmed. "Because of the restrictions on the number of people we can accept," the letter said, "the U.S. Embassy cannot tell you exactly when you are going, or whether you are going at all." An English translation of the Russian original was provided to Refugee Reports by the Hebrew Immigrant Aid Society (HIAS), a New-York based resettlement agency.

"It is better for you not to submit any applications...for permission to leave the USSR," the letter also said, "while you have not received permission for entry to the USA." Such a policy, U.S. officials assert, would eliminate the current problem of people with exit permits being forced to give up their jobs and their homes and wait, possibly for up to two years, for U.S. approval to emigrate.

"More and more it is being asked," the Embassy letter concludes, "that Soviet citizens immigrating to the U.S. prove that they, with the help of their sponsors in the USA, can cover all financial responsibility for their trip, and that they can live there without financial help from the government."

There are now more than 650 Soviet Jews stranded in Moscow, according to HIAS, and the agency predicts an outflow of up to 30,000 Soviet Jewish refugees in FY 89.

HIAS has objected to several aspects of U.S. policy changes regarding refugees from the Soviet Union. First, agency officials argue, if the numbers are restricted, then they should be increased through emergency consultations with Congress, with supplemental funding provided as well. "U.S. refugee admissions policy is being driven by fiscal and not humanitarian considerations," a HIAS spokesman said. "Jews caught in this bureaucratic tangle are in jeopardy, given their experiences with Soviet anti-Semitism and in light of the fact that most of them have surrendered their apartments and jobs as a requirement for receiving exit permission."

HIAS also opposes U.S. government efforts to shift resettlement costs onto the Jewish community, by encouraging refugees and their sponsors to pay transportation and other admissions expenses. "These proposals ignore the fact that the Jewish community already allocates significant sums to the resettlement of Jewish refugees," the HIAS spokesman said, citing estimates by the Council of Jewish Federations that Jewish communities spent at least $14 million in FY 88 and will have spent $66 million in FY 89 on resettlement activities.

"Also given short shrift by these proposals," the statement continued, "is the concept of the public/private partnership in the resettlement of refugees. Refugee admissions are an expression of this nation's foreign policy goals and humanitarian commitments. They are not for sale to the highest bidder or to communities that can afford to pay for them."

HIAS found it "alarming" that several Jews in Moscow and approximately 85 in Rome have been rejected as refugees by the Immigration and Naturalization Service. "Jews from the Soviet Union fully meet the test of refugee status under U.S. and international law," the agency's spokesman said. "A sudden rash of denials of applications can only be interpreted as a cynical attempt to meet arbitrarily imposed budget limits and not as fair application of refugee law."

Despite the holdup on refugee processing in Moscow, Soviet Jews are still able to emigrate with Israeli visas to Vienna and Rome, where they are eligible to apply for U.S. and other third-country resettlement. A total of 2,473 Soviet Jews arrived in Vienna in October, according to the Intergovernmental Committee for Migration, the highest monthly total in nine years.

Representatives of the Armenian community in the United States appear less concerned about trends in U.S. policy on Soviet refugees. "We accept the fact that many, if not most, of the Soviet Armenians currently emigrating to the United States, may not qualify as refugees as mandated by the Refugee Act of 1980," said Ross Vartian, chairman of the Armenian Refugee Coordinating Committee.

"If the U.S. government wishes to receive large numbers of Soviet emigres, it should do so without subverting the basic law established to determine our government's assistance to refugees worldwide," Vartian told Refugee Reports. "Misuse of the Refugee Act ultimately is to the detriment of all the world's refugees, including that group of particular concern to us, the 10,000 to 15,000 Armeninian refugees awaiting a resolution to their plight in asylum countries in Europe and Asia."

Meanwhile, refugee interviewing remains on hold at the U.S. Embassy in Moscow. Given the existing backlogs, further interviewing "would not be useful," according to an unclassified State Department cable obtained by Refugee Reports, "in advance of policy guidance from the Department regarding criteria for making determinations of refugee status for applications now on file, and the availability of additional programs for immigrants from the Soviet Union." Asked when such policy guidance might be available, a State Department official would only say, "Everyone is hedging their bets, at least until the election is over."

Reader Exchange

° The Intergovernmental Committee for Migration (ICM) is conducting a survey of skilled and professional Afghans living and working in the United States and other countries of exile who may wish to return to Afghanistan and help in the reconstruction process there.

Information gathered from the survey will be used to develop a directory of Afghans who can be called upon by international and local agencies recruiting for reconstruction projects.

Afghans interested in participating in the survey may contact ICM at 440 National Press Building, Washington, DC 20045. (202) 662-7099. All individual questionnaire responses will be kept confidential.

° Organizations wishing to be included in the second edition of Directory of Services for Refugees and Immigrants should contact the Denali Press, P.O. Box 021535, Juneau, AK 99802-1535. (907) 586-6014.

° The National Association for Vietnamese American Education (NAVAE) will hold its Tenth Annual National Conference on Indochinese Education and Human Services on March 16-18, 1989 in Chicago, Illinois. NAVAE has issued a call for papers related to the main theme of the conference, which is "The New Generation of Indochinese Americans: Contributions, Conflicts, and Challenges. An abstract no longer than 100 words should be sent by January 15, 1989 to Ngoc Diep Nguyen, Illinois Resource Center, 1855 Mt. Prospect Road, Des Plaines, IL 60018.

For more information about the conference, please contact either of the following people: Khamchong Luangpraseut, President, NAVAE, Indochinese Program, Santa Ana Unified School District, 1405 French Street, Santa Ana, CA 92701. (714) 558-5729. Ngoan Le, NAVAE National Conference Chair, Vietnamese Association of Illinois, 4833 N. Broadway, 2nd Floor, Chicago, IL 60640. (312) 728-3700.

Resources

SALVADORAN DEATH SQUADS RESURGENT, AMNESTY INTERNATIONAL REPORTS

"Regarding the 'expert' testimony of Mr.-----, he is simply wrong in maintaining that the death squads of the early 1980s continue to operate today."

So says a July 18, 1988 State Department advisory opinion for a Salvadoran asylum applicant recently received by Refugee Reports.

"Amnesty International has been concerned over the past year at the escalation of torture, 'disappearances' and extrajudicial executions in El Salvador, carried out by uniformed and plainclothes 'death squads' (clandestine paramilitary groups). Killings by these squads are now the most alarming aspect of the human rights situation in the country."

So says El Salvador: 'Death Squads'-- A Government Strategy, an October 1988 report issued by Amnesty International.

Amnesty International tracks an alarming rise in death squad killings in 1988. Citing Tutela Legal, the human rights monitoring body of the Archdiocese of San Salvador, AI estimates that there had been roughly as many "death squad"-style "disappearances" and murders in the first three months of 1988 as in all of 1987.

Victims have included returned refugees and displaced persons, as well as trade unionists, members of cooperatives, human rights workers, members of the judiciary involved in efforts to establish criminal responsibility for human rights violations, and released political prisoners. Some of the killings and disappearances have been carried out by uniformed police and military units, others by unidentified gunmen in civilian clothes.

Among the returned refugees from

Honduras who have been "disappeared" or arrested and interrogated, sometimes under torture, about their experiences in exile, the report cites the case of Abel Dubon Castro, a 52-year-old shoemaker who returned from the Mesa Grande refugee camp. After being abducted on January 23, 1987 from his home in Ilopango, San Salvador department by men in plainclothes believed to be members of the security forces, he "disappeared" and hasn't been heard from since.

The 48-page report also finds that displaced persons and those who assist them have been the targets of "death squad"-style threats and murders. In June 1986, five church workers assisting the displaced received anonymous death threats. A sixth was arrested by the National Police and threatened with reprisals against his family if he did not reveal supposed connections between the armed opposition, the displaced, and church-run agencies that assist returned refugees and displaced persons. In November 1987, Miguel Angel del Transito Ortiz, a watchman at the convent of Carmelite Missionaries in Plan del Pino, San Salvador, was shot dead while on night duty. The attackers reportedly were attempting to force their way into the convent. The church had been the target of harassment because it was running a clinic for displaced persons, which the military termed a "clandestine clinic for the guerrillas."

In January 1988, one man was wounded when uniformed soldiers opened fire on displaced persons living in San Jose Calle Real, a church-run camp near San Salvador (see Refugee Reports, Vol. IX, No. 2). Foreign and Salvadoran relief workers in the camp were subsequently harassed and threatened with death if they did not stop their work, according to the Amnesty report.

The report is available for $5, plus $1.25 for handling, from AIUSA, National Office, Publications Department, 322 Eighth Ave., New York, NY 10001. (212) 807-8400.

CENTRAL AMERICANS IN THE UNITED STATES

A U.S. Committee for Refugees publication, "The Back of the Hand: Bias and Restrictionism towards Central American Asylum Seekers in North America," presents an overview of developments since the Supreme Court's Cardoza-Fonseca decision, including the impact of the Immigration Reform and Control Act.

Another publication, "In the Shadow of Liberty: Central American Refugees in the United States," published by the American Friends Service Committee, surveys the treatment of Central Americans throughout the country, focusing especially on the border region.

"In the Shadow of Liberty" is available for $6 each, or $5 for 10 or more copies, plus a 20 percent postage charge. Make checks payable to "AFSC Peace Education Resources" and send to the AFSC, 1501 Cherry Street, Philadelphia, PA 19102.

"The Back of the Hand" is available for $3 from the U.S. Committee for Refugees, 1025 Vermont Ave., NW, Suite 920, Washington, DC 20005. (202) 347-3507.

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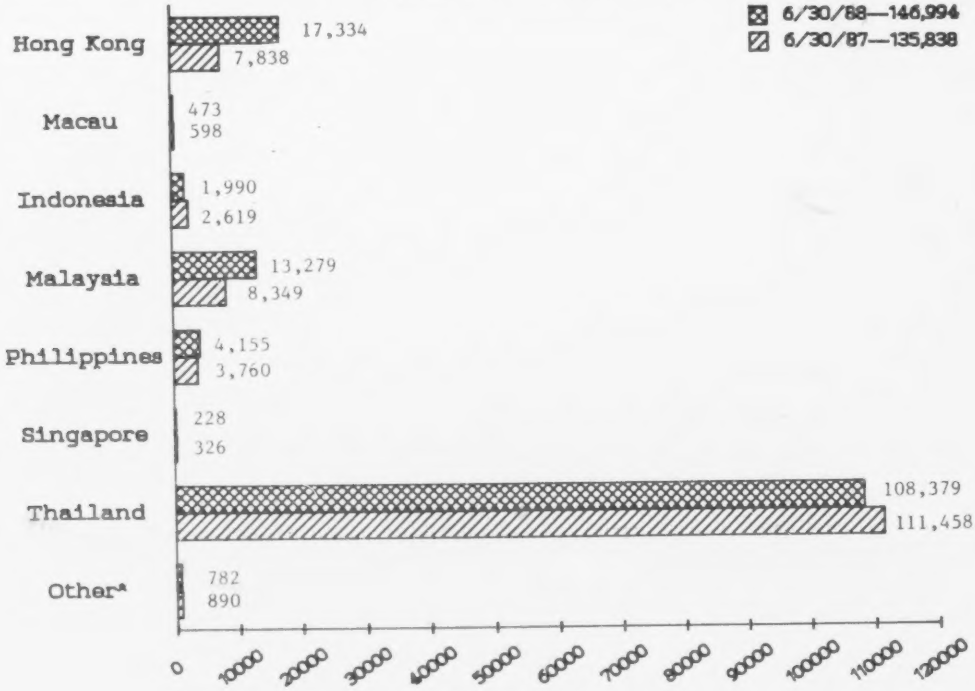
INDOCHINESE REFUGEES IN FIRST ASYLUM CAMPS IN SOUTHEAST ASIA
(June 1987 and June 1988)



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December 16, 1988

1988 STATISTICAL ISSUE

This is our special year-end statistical issue. In addition to tables and graphs on international and domestic refugee programs, the issue includes the index for Refugee Reports for Volume IX, 1988. This issue begins with updates of refugee news.

° On December 8, U.S. Attorney General Dick Thornburgh announced that he had expanded his parole authority to admit up to 2,000 Soviet emigres per month from Moscow plus all Soviet emigres in Rome, Italy, who cannot be admitted to the United States as refugees.

Thornburgh described the move as an "interim measure," and said that he has asked the Justice Department's Office of Legislative Affairs to develop a legislative proposal that would include the establishment of a "special immigrant class" permitting the entry of a limited number of applicants in "special circumstances."

Thornburgh said that the Immigration and Naturalization Service (INS) would place a Russian-speaking officer in the U.S. Embassy in Moscow to begin adjudicating refugee applications now, rather than in early January when the quarterly process is normally started.

Government sources told Refugee Reports that Secretary of State Shultz on November 17 had asked Thornburgh to apply the uniform standard for refugee determination--a "well-founded fear of persecution"--in Rome and Moscow, and that Thornburgh reportedly agreed. The December 8 announcement by the Attorney General apparently reflects a response to the consequences of increased denials of refugee status to Soviet applicants. The New York Times reported on December 3 that 175 Jews and 99 Armenians had been denied refugee status in the Soviet Union in the past few months.

The 2,000 parole places per month in Moscow are expected to go primarily to Armenians, while Soviet Jews will be the primary beneficiaries of the decision to parole those who are not approved for refugee processing in Rome.

In November, 2,334 Jews emigrated from the Soviet Union, according to the National Conference on Soviet Jewry. That figure represents the highest monthly total in nine years, bringing to 15,640 the number of

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Soviet Jews emigrating in the first 11 months of 1988 (in contrast to 8,155 in 1987 and 914 in 1986).

In mid-November, a U.S. congressional delegation to the Soviet Union brought more than 600 outstanding cases from the U.S. Helsinki Commission to the attention of the Soviet authorities, who, in turn, said that they would resolve nearly 150 emigration cases. In early December, the Soviet Union lifted the ban on emigration for 120 Jewish "refuseniks," who had been denied permission to emigrate on the grounds of state secrecy.

Meanwhile, one disaster after another has befallen the Soviet Armenian community. News of some 156,000 internal refugees, displaced by the recent upsurge in ethnic violence between Azerbaijanis and Armenians, was eclipsed by the December 7 earthquake that killed tens of thousands and rendered hundreds of thousands homeless. Spitak, a town wiped out by the quake, had taken in a significant number of refugees in the two weeks prior to the disaster.

- A dramatic increase in the number of Nicaraguan and other Central American asylum seekers passing through Harlingen, Texas has led the INS to revise its policy and to begin extraordinary measures to adjudicate claims at the Mexican-U.S. border in an attempt to stem the influx of asylum seekers.

The Harlingen INS district office reported 2,018 asylum applicants the week of November 28 through December 2, of whom 807 were Nicaraguan. The following week, through December 9, another 1,776 asylum applications were filed, including 965 Nicaraguans. The numbers of Nicaraguans applying for asylum in Harlingen have been increasing steadily for the past six months:

June	1,105
July	1,356
August	2,112
September	2,228
October	2,206
November	2,815
	11,822

An INS official in Harlingen told Refugee Reports that about half of the total applications in the past six months have been from Nicaraguans. About a quarter are from Salvadorans, 12 percent from Guatemalans, and 11 percent from Hondurans. "The taxi drivers have been making a mint driving them to our offices," the official said.

The Nicaraguans have been using their asylum applications essentially as travel documents. The procedure has been to affix their fingerprints to the I-589 asylum applications, attach the biographical data form (G 325A), and send them on their way. Fewer than 1 percent have remained in the Harlingen area. More than half have traveled to Florida, 10 percent to Los Angeles, 10 percent to San Francisco, 5 percent to Washington, D.C., 5 percent to Newark, New Jersey, and the remainder scattered in Houston and the eastern seaboard.

An average of 1,000 asylum applications per week are now being filed in Miami. The Miami office has a backlog of 50,000 asylum applications, including 35,000 Nicaraguans.

In response, an INS task force has been established to deal with the influx of Nicaraguans and other Central Americans. INS Commissioner Alan C.Nelson told the New York Times, December 14, he would send 6 or 7 additional examiners to Harlingen in December and another 20 to 30 in January to review asylum applications. He said that he was also ordering the deployment of more Border Patrol officers in Texas and sending additional examiners to Miami and Los Angeles.

An INS official in Harlingen told Refugee Reports that beginning December 15 or 16, asylum applicants will be adjudicated in Harlingen "six days a week, ten hours a day." The practice of sending applicants on to other parts of the country without a hearing appears to have come to an end.

But affirmative applications for asylum with district directors tell only part of the story. Apprehensions by the Border Patrol are another indication of the influx from Central America. Those who are apprehended by the Border Patrol do not apply for asylum with INS district directors, but, if they opt to apply, do so before immigration judges in the course of deportation or exclusion proceedings.

Apprehensions of Salvadorans in FY 88 have increased 46 percent over the previous year, and apprehensions of Guatemalans rose 38 percent over last year, while the total apprehensions for all nationalities fell by 18 percent, including a 32 percent drop in Nicaraguan apprehensions. INS personnel attribute the overall fall in apprehensions in part to the sanctions provisions of the

Immigration Reform and Control Act of 1986 (IRCA). The overwhelming majority of apprehensions (94 percent) continued to be of Mexicans. Apprehensions of selected nationalities for the past three years are included in the chart below.

	FY 86	FY 87	FY 88
Salvadorans	20,593	9,780	14,322
Guatemalans	9,918	6,722	9,246
Nicaraguans	N/A	4,819	3,280
Mexicans	1,671,458	1,139,606	949,722
All	1,765,348	1,190,488	1,008,143

Source: Immigration and Naturalization Service

° The application period for legalization under IRCA's special agricultural worker (SAW) program ended on November 30, with 1,164,885 applications received, as of December 6. INS officials said that the figure would likely top 1.2 million. The general legalization program that ended May 4 drew 1,766,129 applicants. Aliens are eligible for legalization under the SAW provision of immigration reform if they can prove they worked at least 90 days in agriculture during the 12 months before May 1, 1986.

An unclassified INS cable from the central office in September said, "That there is substantial fraud in the SAW program is apparent from the fact that the number of applications received has already surpassed the number of aliens who might be eligible. The detection and deterrence of such fraud has therefore become a matter of urgent importance to the Service."

Through December 5,313,452 SAW applicants had been approved, 25,154 rejected, for an approval rate of 93 percent. In the general program, 1,254,216 have been approved, 34,385 denied, for an approval rate of 97 percent.

° The American Friends Service Committee (AFSC) filed suit in a Los Angeles federal district court seeking exemption on religious grounds from the employer sanctions provisions of the Immigration Reform and Control Act (IRCA). The suit states, "Compliance would make the AFSC a party to the forced expulsion of people its faith compels it to welcome and serve." IRCA requires all employers to verify the work eligibility of all employees hired after November 6, 1986.

Enforcement of the employer sanctions provisions of IRCA has been heating up lately. The November 21 issue of the immigration law weekly Interpreter Releases lead with the headline "Employer Sanctions Turns Serious." (An INS agent even conducted an inspection of the Refugee Reports office for compliance with the immigration law. We passed, by the way.)

° On December 2, five Cuban nationals from the Mariel boatlift, who had been convicted of serious crimes in the United States, were repatriated to Cuba. The Supreme Court denied a request for a stay by an 8-to-1 vote. Three of the Cubans had claimed that they would be subject to persecution upon return to Cuba.

° Vietnam and the United States have agreed to set up an Amerasian processing center in Vietnam, according to the December 3 Washington Post. The source of the story was a Vietnamese News Agency dispatch, but U.S. officials said that the agreement had not yet been finalized.

° Thai authorities have told U.S. and United Nations officials that about 3,000 people illegally residing in Khao I Dang gradually will be moved to Ban Thad, a recently built camp on the Thai-Cambodian border, where they will be under the protection of the UN High Commissioner for Refugees (UNHCR), a State Department official told Refugee Reports. The official speculated that such a move could take place "within six months."

Ban Thad currently houses about 3,700 Vietnamese, the official said, most of whom arrived in Thailand by boat after January 1988, when the Thai government policies toward boat people changed dramatically for the worse. Along with regular interdiction and pushback of boats along the eastern and southern coastlines, new Thai policy restricts access of new Vietnamese arrivals to resettlement interviews.

Thailand will allow the 14,000 legal residents of Khao I Dang, who already have UNHCR refugee status but who have been rejected by resettlement countries, to remain in Khao I Dang as long as there is a chance they might be resettled in another country, the official said.

REFUGEE PROCESSING PRIORITIES BY REGION, AS OF DECEMBER 1988

	P-1	P-2	P-3	P-4	P-5	P-6
AFRICA						
Africans in Sudan	X	X	X	X	X	
Africans Elsewhere in Africa	X	X	X	X	X	X
Africans in Europe	X	a/	a/	a/	a/	b/
EAST ASIA						
Cambodians	X	X	X	X	X	c/
Highland Lao	X	X	X	X	X	
Lowland Lao	X	X	X	X	X	
Vietnamese	X	X	X	X	X	d/
EASTERN EUROPE/SOVIET UNION	X	X	X	X	X	X
NEAR EAST/SOUTH ASIA	X	X	X	X		
LATIN AMERICAN/CARIBBEAN						
Cubans	e/	f/	f/	f/	f/	f/
Non-Cubans	X	X	X	X	X	

NOTES

a/ P-2 to P-5 processing is available only for those who registered with a voluntary agency or with the UN High Commissioner for Refugees (UNHCR) before November 19, 1986, and for those fleeing from Eastern Europe.

b/ P-6 processing is available on a limited, highly selective basis.

c/ P-6 processing is available to the remaining "family card" and "ration card" holders in Khao I Dang, who entered the camp between 1982 and October, 1985, but only to those with "category" claims. For Cambodians, this includes ethnic Chinese, Buddhist monks, and former government officials and members of the military prior to 1975.

d/ P-6 processing is limited to a small number of Iand Vietnamese in Thailand (who fled overland across Cambodia), who can establish "category" claims, showing they belong to groups that were subject to persecution in Vietnam. Current categories include Buddhist monks, Catholics, ethnic Chinese, Montagnards, and Chams (a Muslim ethnic minority).

e/ P-1 processing is available for current and former political prisoners and their close family members in Cuba and in third countries.

f/ Limited P-1 to P-6 processing is available to Cubans in third countries, with private sponsorship arranged by the Cuban American National Foundation.

DESCRIPTION OF U.S. REFUGEE PROCESSING PRIORITIES

PRIORITY ONE: COMPELLING CONCERN/INTEREST: Exceptional cases (a) of refugees in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the U.S., or (b) of refugees of compelling concern to the U.S., such as former or present political prisoners and dissidents.

PRIORITY TWO: FORMER U.S. GOVERNMENT EMPLOYEES: Refugees employed by the U.S. government for at least one year prior to the claim for refugee status. This category also includes persons who were not official U.S. government employees, but who for at least one year were so integrated into U.S. government offices as to have been in effect and appearance U.S. government employees.

PRIORITY THREE: FAMILY REUNIFICATION: Refugees who are spouses, unmarried sons, unmarried daughters, or parents of persons in the U.S. (The status of the anchor relative in the U.S. must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, or asylee.)

PRIORITY FOUR: OTHER TIES TO THE UNITED STATES:

FOR EASTERN EUROPE, LATIN AMERICA, AFRICA: (a) refugees employed by U.S. foundations, U.S. voluntary agencies, or U.S. business firms for at least one year prior to the claim for refugee status, and (b) refugees trained in the U.S. or abroad under U.S. auspices.

FOR EAST ASIA: (a) and (b) as above, plus (c) persons previously in the civil service or armed forces of the former governments of Indochina who were associated with U.S. government policies or U.S. government supported programs, (d) persons who played a meaningful role in the social, economic, political, religious, intellectual, or artistic life of the former societies of Indochina, including such persons as professors, philosophers, monks, or other transmitters of the cultural traditions of these societies.

FOR NEAR EAST/SOUTH ASIA: (a) and (b) as above, plus (c) refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination (such as Iranian Baha'is, Jews, Christians, and Zoroastrians), including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies, or councils; (d) refugees who have become targets of persecution because of a perceived identification with the U.S. or the other nations of the West (including Israel); (e) refugees who because of their religious affiliation have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated, or have been denied pensions that would otherwise be available.

PRIORITY FIVE: ADDITIONAL FAMILY REUNIFICATION: Refugees who are married sons or married daughters, siblings, grandparents, or grandchildren of persons in the U.S., or other more distantly related individuals who are part of the family group and dependent on the family for support.

FOR EAST ASIA, add the following: (a) persons who have not yet reached their eighteenth birthday and who have relatives in the U.S. and no closer relatives in another country outside Indochina.

PRIORITY SIX: OTHERWISE OF NATIONAL INTEREST: Other refugees in specified regional groups whose admission is in the national interest.

FOR EAST ASIA, add the following: (a) persons who have not reached their eighteenth birthday, who are not accompanied by an older relative or guardian in the camps, and whose parents or guardians are deceased or did not escape, and for whom the UNHCR has specifically requested resettlement assistance. Such persons must not have relatives in another resettlement country.

INDOCHINESE REFUGEE ACTIVITY
Camp Populations By Ethnic Group*
As of September 1988

COUNTRY	CAMP	LAO	HIGHLAND	KHMER	VIETNAMESE	TOTAL
HONG KONG	Argyle St. Camp 4	0	0	0	5	5
	Cape Collinson	0	0	0	625	625
	Kai Tak North	0	0	0	2,569	2,569
	Other	0	0	0	9,547	9,547
	San Yick	0	0	0	3,949	3,949
	Sham Sui Po	0	0	0	5,083	5,083
	Tuen Mun	0	0	0	2,994	2,994
	VBP Departure Center	0	0	0	174	174
	Victoria Remand Cen.	0	0	0	64	64
	SUBTOTAL	0	0	0	25,010	25,010
INDONESIA	Galang--1st Asylum	0	0	6	1,947	1,953
	Outer Islands	0	0	0	165	165
	SUBTOTAL	0	0	6	2,112	2,118
JAPAN	Japan	0	0	0	496	496
KOREA	Korea	0	0	0	123	123
MACAU	Kaho	0	0	0	465	465
MALAYSIA	Pulau Bidong	0	0	0	8,623	8,623
	Sungei Besi	0	0	0	3,844	3,844
	SUBTOTAL	0	0	0	12,467	12,467
PHILIPPINES	Bataan ODP	0	0	0	4,532	4,532
	Bataan RPC	1,851	0	798	6,099	8,748
	Palawan	0	0	0	4,760	4,760
	PRTC	0	0	0	457	457
	SUBTOTAL	1,851	0	798	15,848	18,497
SINGAPORE	Hawkins Road	0	0	0	345	345
THAILANDa/	Ban Nam Yao	0	1,807	0	0	1,807
	Ban Thad	0	0	0	3,603	3,603
	Ban Vinai	216	34,628	0	0	34,844
	Bangkok Transit	30	12	86	39	167
	Chiang Kham	94	17,963	0	0	16,057
	Kapcherng	0	0	1,153	0	1,153
	Khao I Dang	0	0	15,963	0	13,963
	Napho	16,917	435	0	0	17,352
	Phanat Nikhom RPC	1,187	4,245	600	0	6,032
	Phanat Processing	381	1,177	2,023	8,253	11,834
	Phanat Transit	179	47	115	1,030	1,371
	SUBTOTAL	19,004	58,314	17,940	12,925	108,183
TAIWAN	Taiwan	0	0	0	188	188
GRAND TOTAL		20,855	58,314	18,744	69,979	167,892

a/ Thailand numbers do not include more than 300,000 Cambodian "displaced persons" on the Thai-Cambodian border.

Source: Bureau for Refugee Programs, Department of State

INDOCHINESE REFUGEE ACTIVITY SINCE APRIL 1975
(Excluding Orderly Departure Program)

FIRST ASYLUM COUNTRIES	POPULATION AS OF 9/30/88	FY 88 ARRIVALS	ARRIVALS SINCE APRIL 1975	TO U.S.	3RD COUNTRIES	VOLUNTARY REPATRIATION	RELOCATION	OTHER
HONG KONG	25,010	18,702	147,963	50,153	60,239	26	0	273
MACAU	465	11	7,659	2,427	3,514	0	0	574
INDONESIA	2,118	2,253	104,055	42,600	40,423	6	0	49
MALAYSIA	12,467	13,293	235,118	88,120	92,458	8	0	136
PHILIPPINES	5,217	3,878	45,620	9,978	14,745	9	0	36
SINGAPORE	345	880	33,630	5,583	19,950	1	0	3
OTHER	807	289	41,375	6,231	33,307	0	0	15
THAILAND-KHMER	17,340	1,425	239,216	50,357	72,969	42	41,172	261
THAILAND-HIGHLANDERS	54,069	15,626	158,619	52,883	21,535	748	0	2,448
THAILAND-LAO	17,817	3,625	191,379	71,960	45,161	2,523	1,000	3,227
THAILAND-VIETNAMESE LAND	601	1,043	31,458	8,052	12,028	0	0	178
THAILAND-VIETNAMESE BOAT	12,324	11,153	103,550	28,003	26,603	2	0	292
SUBTOTAL THAILAND	102,151	32,872	724,222	211,255	178,296	3,315	42,172	6,406
SUBTOTAL LAND REFUGEES	89,827	21,719	620,688	183,252	151,694	3,313	42,172	6,114
SUBTOTAL BOAT REFUGEES	58,753	50,459	718,954	233,095	291,238	52	0	1,378
TOTAL FIRST ASYLUM	**148,580**	**72,178**	**1,339,642**	**416,347**	**442,932**	**3,365**	**42,172**	**7,492**
REFUGEE PROCESSING CENTERS (RPCs)								
BATAAN	13,280	18,175	201,348	191,923	5,358	0	0	140
GALANG	0	0	55,501	50,651	4,669	0	0	146
PHANAT NIKHOM	6,032	14,714	48,439	43,239	7	0	146	181
TOTAL RPCs	**19,312**	**32,889**	**305,288**	**285,813**	**10,034**	**0**	**146**	**467**
VIETNAMESE TO U.S. IN 1975	0	0	124,547	123,000	0	1,547	0	0
OTHER TO U.S. IN 1975	0	0	12,000	12,000	0	0	0	0
VN TO CHINA BETWEEN 1977-79	0	0	263,000	0	263,000	0	0	0
GRAND TOTAL	**167,892**	**72,178**	**1,739,189**	**837,160**	**715,966**	**4,912**	**42,318**	**7,959**

Source: Bureau for Refugee Programs/U.S. Department of State.

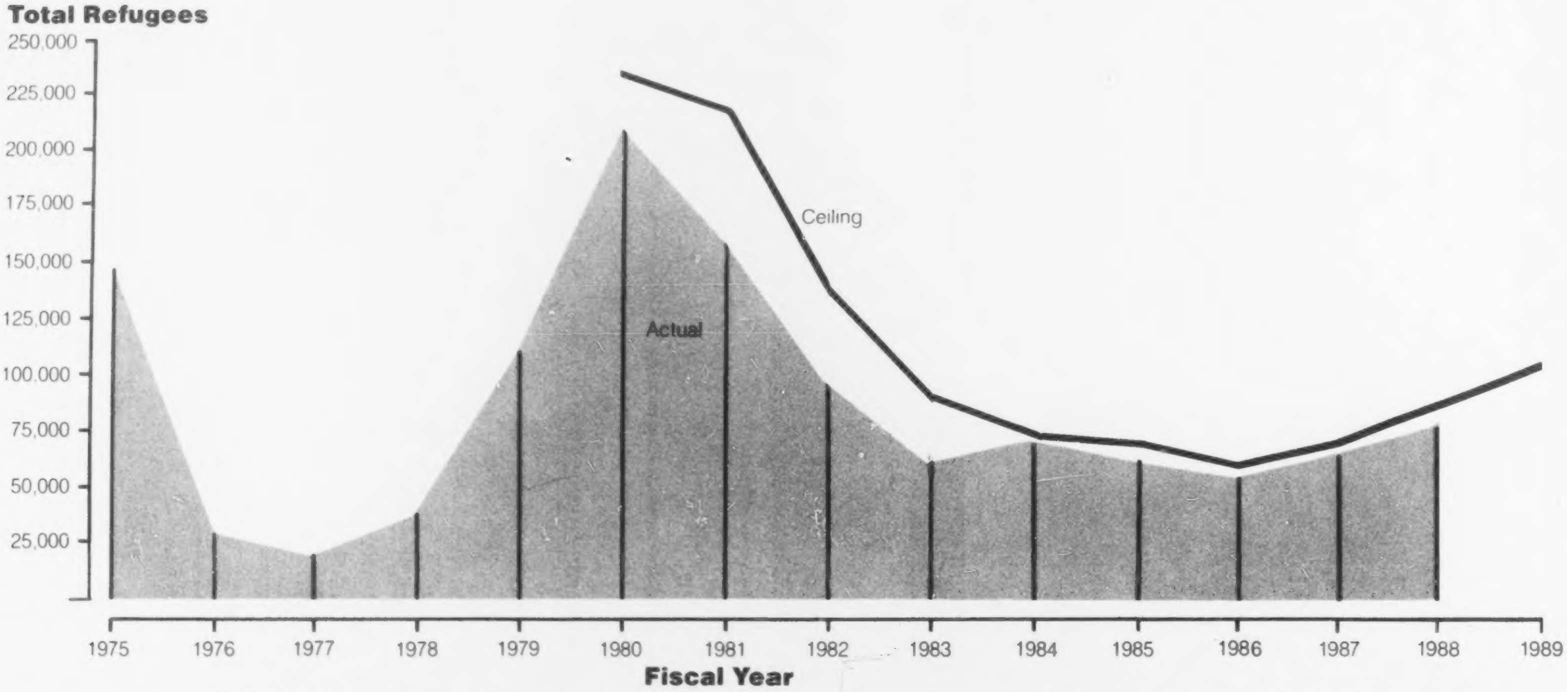
ARRIVALS IN RESETTLEMENT COUNTRIES: 1987, 1988, AND CUMULATIVE SINCE 1975

RESETTLEMENT COUNTRY	VIETNAMESE BOAT PEOPLE 1987	VIETNAMESE BOAT PEOPLE 1988	VIETNAMESE LAND 1987	VIETNAMESE LAND 1988	KHMER 1987	KHMER 1988	LAO 1987	LAO 1988	ORDERLY DEPARTURES FROM VIETNAM 1987	ORDERLY DEPARTURES FROM VIETNAM 1988	TOTAL 1987	TOTAL 1988	CUMULATIVE TOTAL 1975-1988
AUSTRALIA	4,614	2,759	69	57	1,391	980	716	630	1,427	937	8,217	5,363	127,579
AUSTRIA	18	9	-	-	2	-	-	-	11	51	31	60	2,284
BELGIUM	99	24	-	-	5	20	3	4	40	129	147	177	7,343
CANADA	3,989	3,972	130	207	1,344	981	452	639	1,318	790	7,233	6,589	145,959
CHINA	-	-	-	-	-	-	-	-	-	-	-	-	263,000
DENMARK	78	114	1	-	7	16	-	-	110	320	196	450	4,541
FINLAND	126	57	-	13	-	-	-	6	18	16	144	92	760
FRANCE	970	556	5	16	815	429	575	320	405	607	2,770	1,928	125,191
GERMANY, F.R.	119	166	-	2	-	6	5	4	271	441	395	619	31,837
GREECE	10	4	-	-	-	-	-	-	13	34	23	38	244
HONG KONG	48	12	-	-	-	1	-	-	2	1	50	14	9,976
IRELAND	-	-	-	-	-	-	-	-	3	17	3	17	290
ITALY	3	-	-	-	4	-	1	-	27	40	35	40	3,715
JAPAN	415	142	1	-	149	49	55	40	36	91	656	332	6,183
LUXEMBOURG	26	1	-	-	-	-	-	-	8	17	34	18	232
NETHERLANDS	226	192	2	4	108	68	-	-	42	97	378	361	7,744
NEW ZEALAND	182	121	18	-	445	292	184	112	57	67	886	592	9,364
NORWAY	389	222	3	1	36	25	-	-	138	406	566	654	7,375
SPAIN	-	3	-	-	-	-	-	-	-	5	-	8	935
SWEDEN	140	65	64	4	21	7	-	1	149	353	374	430	5,303
SWITZERLAND	40	74	1	5	15	26	4	10	21	61	81	176	9,084
U.K.	188	228	2	1	16	13	24	16	164	291	394	549	20,951
U.S.A. a/	14,500	10,925	N/A	N/A	1,539	2,805	15,564	14,556	8,500	6,702	40,115	35,015	884,474
OTHERS	1	-	-	-	3	5	-	-	21	40	25	45	9,831
TOTAL	26,181	19,646	377	363	5,900	5,723	17,583	16,338	12,781	11,513	62,753	53,567	1,684,195

a/ To maintain consistency, U.S. statistics are from the Department of State and record fiscal year arrivals. No separate figures for land and boat Vietnamese are provided, but UNHCR statistics show that the United States resettled 81 land Vietnamese in 1987 and 53 in 1988.

Source: UN High Commissioner for Refugees (Current as of September 30, 1988)

ACTUAL REFUGEE ADMISSIONS TO THE U.S. AND CEILINGS ON REFUGEE ADMISSIONS, FY 75-88
(As of September 30, 1988)
(Chart 1)



	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Actual	146,158	27,206	19,946	36,507	111,363	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,831	75,754	
Ceiling						231,000	217,000	140,000	90,000	72,000	70,000	67,000	70,000	83,500	94,000

ACTUAL REFUGEE ADMISSIONS TO THE U.S. AND CEILINGS ON REFUGEE ADMISSIONS, FY 75-88

(As of September 30, 1988)

(Chart 2)

	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83a/	FY 84b/	FY 85b/	FY 86	FY 87b/	FY 88b/	FY 89	TOTAL
AFRICA (ACTUAL ADMISSIONS)						955	2,119	3,326	2,648	2,747	1,953	1,315	1,994	1,588		18,645
(CEILINGS)						**1,500**	**3,000**	**3,500**	**3,000**	**2,750**	**3,000**	**3,500**	**2,000**	**3,000**	**2,000**	
ASIA c/	135,000	15,000	7,000	20,574	76,521	163,799	131,139	73,522	39,408	51,960	49,970	45,454	40,115	35,015		884,477
						169,200	**168,000**	**96,000**	**64,000**	**52,000**	**50,000**	**45,500**	**40,500**	**38,000**	**53,000**	
EASTERN EUROPE	1,947	1,756	1,755	2,245	3,393	5,025	6,704	10,780	12,083	10,285	9,350	8,713	8,606	7,818		90,460
						5,000	**4,500**	**11,000**								
SOVIET UNION	6,211	7,450	8,191	10,688	24,449	28,444	13,444	2,756	1,409	715	640	787	3,694	20,421	24,500	129,299
						33,000	**33,000**	**20,000**	**15,000**	**11,000**	**10,000**	**9,500**	**12,300**	**30,000**		
LATIN AMERICA	3,000	3,000	3,000	3,000	7,000	6,662	2,017	602	668	160	138	173	315	2,497		32,232
						20,500	**4,000**	**3,000**	**2,000**	**1,000**	**3,000**	**3,000**	**1,000**	**3,500**	**3,500**	
NEAR EAST AND SOUTH ASIA						2,231	3,829	6,369	5,465	5,246	5,994	5,998	10,107	8,415		53,654
						2,500	**4,500**	**6,500**	**6,000**	**5,250**	**6,000**	**6,000**	**10,200**	**9,000**	**7,000**	
UNALLOCATED RESERVE													0	717d/		717
													4,000e/	**4,000**	**4,000**	
TOTAL	146,158	27,206	19,946	36,507	111,363	207,116	159,252	97,355	61,681	71,113	68,045	62,440	64,831	76,471		1,209,484
						231,700	**217,000**	**140,000**	**90,000**	**72,000**	**70,000**	**67,000**	**70,000**	**87,500**	**94,000**	

a/ From FY 83 on, the Eastern Europe ceiling has been combined with the ceiling for the Soviet Union.

b/ This chart shows the adjusted regional ceilings that were established at mid-year consultations in FY 84, FY 85, FY 87, and FY 88. The overall annual ceilings did not change, except in FY 88.

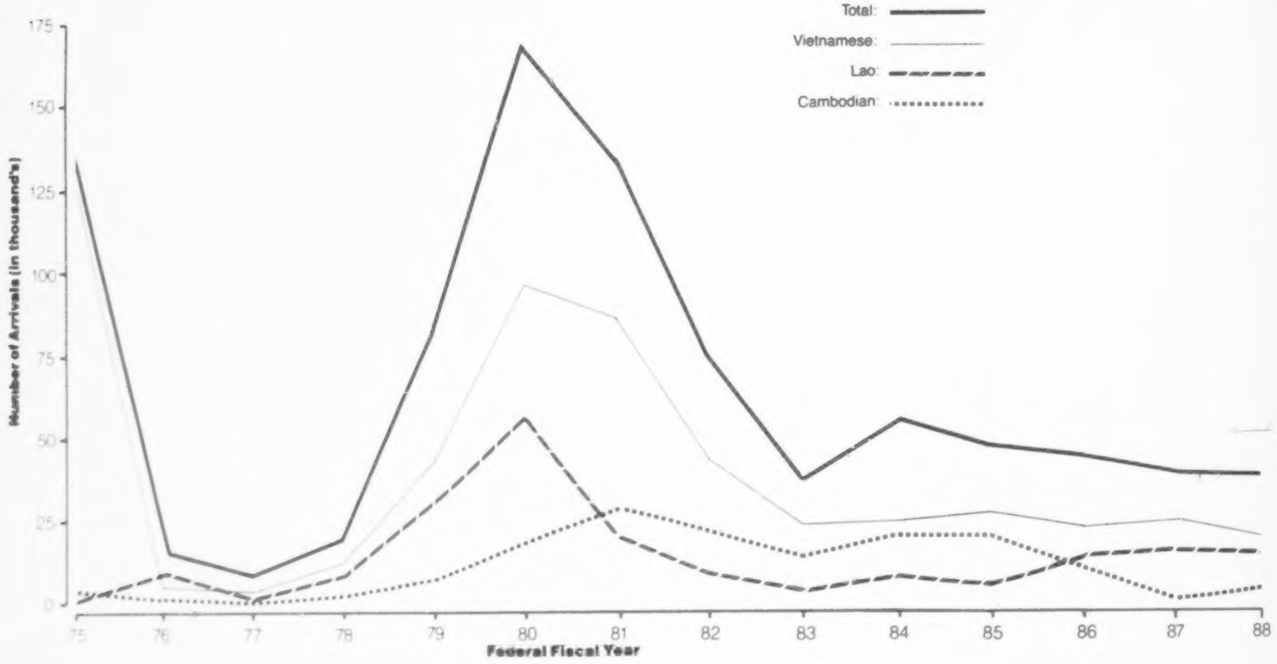
c/ Ceilings and actual admissions figures for Asia include both first asylum resettlement and the Orderly Departure Program from Vietnam.

d/ In FY 88, 717 Cubans entered the country as refugees under the private admissions initiative, according to the U.S. Coordinator for Refugee Affairs.

e/ The FY 87 and FY 88 admissions ceilings include an unallocated reserve for "contingent refugee admission needs," to be used only after consultation with Congress, and only to the extent that private sector funding is available to support admissions using the reserve.

Source: Bureau for Refugee Programs/U.S. Department of State.

SOUTHEAST ASIAN REFUGEE ARRIVALS IN THE UNITED STATES BY NATIONALITY, FY 75-88

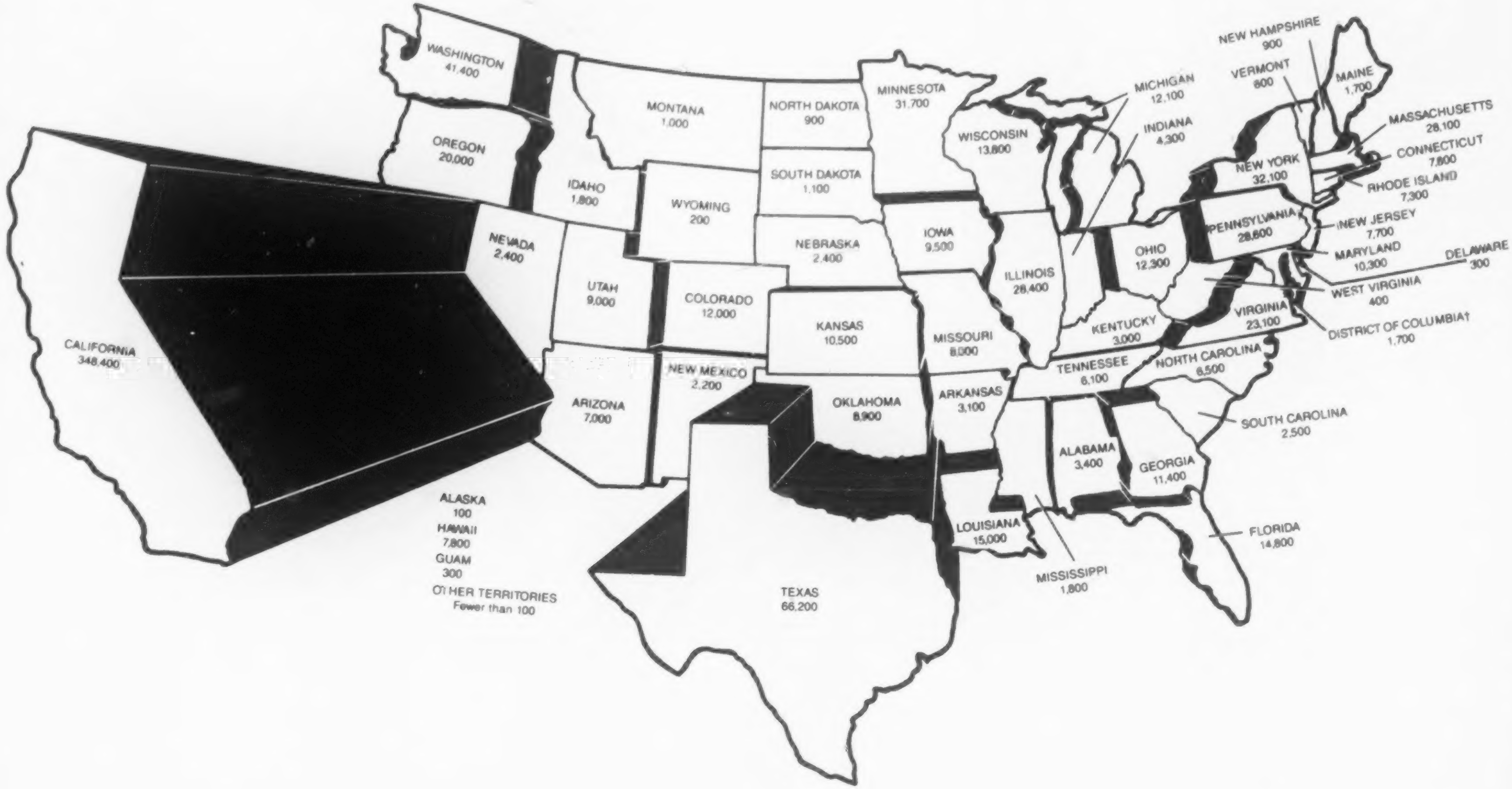


Federal Fiscal Year	Cambodia	Laos	Vietnam	Total a/
	Country of Nationality			
1988	3,276	14,563	17,499	35,338
1987	1,539	15,564	23,012	40,115
1986	10,054	12,894	22,443	45,391
1985	19,131	5,181	25,209	49,521
1984	19,849	7,224	24,927	52,000
1983	13,114	2,835	23,459	39,408
1982	20,234	9,437	43,656	73,327
1981	27,100	19,300	86,100	132,500
1980	16,000	55,500	95,200	166,700
1979	6,000	30,200	44,500	80,700
1978	1,300	8,000	11,100	20,400
1977	300	400	1,900	2,600
1976	1,100	10,200	3,200	14,500
1975	4,600	800	125,000	130,400
TOTAL	143,597	192,098	547,205	882,900

a/ Total may not agree with U.S. State Department annual arrival data because they are based on different data files.

Source: Linda W. Gordon, Chief Statistician, ORR, "Southeast Asian Refugee Migration to the United States," September 1984, and Office of Refugee Resettlement, U.S. Department of Health and Human Services.

SOUTHEAST ASIAN REFUGEES: ESTIMATED CUMULATIVE STATE POPULATION a/ INCLUDING ENTRIES FROM 1975 THROUGH SEPTEMBER 1988


WASHINGTON 41,400
MONTANA 1,000
NORTH DAKOTA 900
MINNESOTA 31,700
OREGON 20,000
IDAHO 1,800
WYOMING 200
SOUTH DAKOTA 1,100
WISCONSIN 13,800
MICHIGAN 12,100
INDIANA 4,300
NEW HAMPSHIRE 900
VERMONT 800
MAINE 1,700
MASSACHUSETTS 28,100
CONNECTICUT 7,800
RHODE ISLAND 7,300
NEW YORK 32,100
NEVADA 2,400
UTAH 9,000
COLORADO 12,000
NEBRASKA 2,400
IOWA 9,500
ILLINOIS 28,400
OHIO 12,300
PENNSYLVANIA 28,600
NEW JERSEY 7,700
MARYLAND 10,300
DELAWARE 300
WEST VIRGINIA 400
DISTRICT OF COLUMBIA† 1,700
CALIFORNIA 348,400
KANSAS 10,500
MISSOURI 8,000
KENTUCKY 3,000
VIRGINIA 23,100
NEW MEXICO 2,200
ARIZONA 7,000
OKLAHOMA 8,900
ARKANSAS 3,100
TENNESSEE 6,100
NORTH CAROLINA 6,500
SOUTH CAROLINA 2,500
ALABAMA 3,400
GEORGIA 11,400
LOUISIANA 15,000
MISSISSIPPI 1,800
FLORIDA 14,800
TEXAS 66,200
ALASKA 100
HAWAII 7,800
GUAM 300
OTHER TERRITORIES Fewer than 100

a/ Adjustments for secondary migration were last incorporated into these estimates as of 9/30/85. New adjustments for migration through FY 1988 have not been calculated. All totals rounded to the nearest hundred.

b/ Arrival figures for the District of Columbia are overstated because they are based on the address of the sponsoring organization. Most of those persons are thought to settle directly in nearby Maryland or Virginia.

Source: Office of Refugee Resettlement/U.S. Department of Health and Human Services

REFUGEE ARRIVALS BY COUNTRY OF CITIZENSHIP AN

COUNTRY

STATE	CAMBODIA	LAOS	VIETNAM	CZECHOSLOVAKIA	HUNGARY	POLAND
Alabama	**282**	**253**	**593**	**5**	**3**	**37**
Alaska	**4**	**37**	**58**	**4**	**0**	**20**
Arizona	**663**	**290**	**2,970**	**35**	**11**	**221**
Arkansas	**31**	**367**	**382**	**8**	**4**	**100**
California	**17,408**	**21,276**	**52,641**	**1,417**	**616**	**3,007**
Colorado	548	959	1,581	115	29	155
Connecticut	1,093	803	890	100	316	796
Delaware	0	7	61	0	2	7
District of Columbia	252	169	659	25	53	170
Florida	1,050	590	3,181	153	172	574
Georgia	**1,680**	**856**	**2,353**	**70**	**91**	**131**
Hawaii	**77**	**526**	**1,168**	**9**	**2**	**6**
Idaho	**261**	**223**	**325**	**280**	**16**	**286**
Illinois	**2,931**	**1,771**	**3,427**	**271**	**119**	**2,388**
Indiana	**224**	**198**	**510**	**37**	**21**	**163**
Iowa	535	1,109	1,263	12	31	148
Kansas	412	542	2,285	15	0	30
Kentucky	445	212	821	0	0	29
Louisiana	550	470	2,715	16	1	78
Maine	691	24	147	29	8	326
Maryland	**1,122**	**400**	**1,700**	**132**	**61**	**471**
Massachusetts	**5,177**	**1,067**	**4,600**	**684**	**41**	**568**
Michigan	**201**	**866**	**1,493**	**81**	**67**	**1,582**
Minnesota	**2,529**	**5,754**	**2,554**	**49**	**51**	**262**
Mississippi	**14**	**17**	**567**	**11**	**2**	**9**
Missouri	746	546	1,727	197	138	524
Montana	6	176	57	7	0	12
Nebraska	136	156	409	65	10	176
Nevada	127	138	719	14	15	145
New Hampshire	342	64	187	49	5	32
New Jersey	**269**	**137**	**2,103**	**180**	**132**	**1,236**
New Mexico	**286**	**221**	**424**	**8**	**3**	**41**
New York	**3,053**	**995**	**6,422**	**632**	**564**	**4,371**
North Carolina	**1,437**	**533**	**1,203**	**33**	**32**	**180**
North Dakota	**135**	**37**	**139**	**102**	**38**	**100**
Ohio	1,683	888	1,107	95	156	209
Oklahoma	476	359	1,653	11	1	91
Oregon	957	1,070	2,407	21	20	81
Pennsylvania	2,984	766	4,143	186	174	1,123
Rhode Island	1,186	874	214	0	135	71
South Carolina	**98**	**69**	**269**	**5**	**0**	**12**
South Dakota	**34**	**51**	**141**	**47**	**53**	**127**
Tennessee	**1,240**	**1,183**	**788**	**29**	**7**	**135**
Texas	**5,279**	**3,120**	**12,513**	**225**	**94**	**1,113**
Utah	**1,749**	**481**	**1,248**	**273**	**4**	**262**
Vermont	230	19	19	203	15	29
Virginia	2,152	775	3,786	32	47	198
Washington	4,565	2,606	4,815	128	407	679
West Virginia	16	19	33	8	6	17
Wisconsin	211	4,407	448	26	11	178
Wyoming	**0**	**14**	**19**	**3**	**5**	**4**
Guam	**0**	**0**	**33**	**0**	**0**	**0**
Other and Unknown	**0**	**0**	**0**	**0**	**0**	**0**
TOTAL	67,577	58,490	135,970	6,132	3,797	22,710

Note: Figures are based on data from the Refugee (formerly ACVA) Da
agencies as of October 15, 1988 and may not include informati
Source: Office of Refugee Resettlement, U.S. Department of Health a

STATE OF INITIAL RESETTLEMENT FY 83 THROUGH FY 88

CITIZENSHIP

ROMANIA	USSR	ETHIOPIA	AFGHANISTAN	IRAN	TOTAL
29	5	63	36	25	1,331
10	1	0	7	32	173
577	27	381	182	146	5,503
7	1	0	3	15	918
5,776	14,657	2,548	5,469	13,941	138,756
55	48	152	235	122	3,999
434	179	57	69	170	4,907
8	5	2	15	22	129
57	8	542	230	95	2,260
519	165	251	147	345	7,147
174	72	397	322	241	6,367
2	0	2	31	0	1,823
166	17	3	0	17	1,594
2,529	1,022	512	275	491	15,736
104	36	33	52	62	1,442
58	3	14	3	28	3,204
22	1	13	73	43	3,436
49	2	52	36	27	1,673
20	8	35	34	36	3,963
26	5	1	238	92	1,587
234	346	719	347	786	6,318
105	1,695	237	72	336	14,582
1,162	170	196	55	127	6,000
182	98	372	148	110	12,109
7	0	12	4	9	652
277	58	393	111	83	4,800
4	0	7	5	1	275
27	0	6	161	9	1,155
31	12	172	106	214	1,693
45	8	1	10	25	768
501	484	203	419	343	6,007
24	2	11	47	31	1,098
3,965	6,406	756	2,744	2,683	32,591
80	4	70	90	40	3,702
129	0	42	0	16	738
679	198	264	51	117	5,447
54	4	23	32	178	2,882
731	137	129	74	115	5,742
478	739	319	182	211	11,305
18	140	12	1	17	2,668
20	7	9	23	31	546
108	3	114	25	48	751
73	36	64	136	247	3,938
828	119	1,317	582	910	26,100
47	25	1	17	84	4,191
43	2	2	0	73	635
101	20	346	1,643	318	9,418
369	58	421	237	189	14,474
8	0	1	11	13	132
17	65	41	35	45	5,484
0	0	0	30	3	78
0	0	0	0	0	33
2	1	0	0	0	3
20,971	27,099	11,320	14,855	23,362	392,283

Center, the Intergovernmental Committee for Migration, and other federal
on all refugees in the categories reported.
Human Services

ASYLUM CASES FILED WITH INS DISTRICT DIRECTORS APPROVED AND DENIED, BY SELECTED NATIONALITIES

	June 1983 - September 1988 Cumulative			FY 88 Only			
Country	Approval Rate for Cases Decided	Cases Granted	Cases Denied	Approval Rate for Cases Decided	Cases Granted	Cases Denied	Cases Currently Pending
TOTAL a/	27.8%	28,416	73,753	39.1%	5,531	8,582	73,109
Iran	61.7%	12,459	7,727	75.0%	764	254	1,373
Romania	61.4%	895	562	82.9%	345	71	341
Czechoslovakia	44.7%	123	152	44.8%	13	16	72
Syria	39.4%	186	285	65.7%	25	13	100
Ethiopia	39.0%	1,340	2,089	77.0%	441	131	525
Poland	38.0%	2,686	4,365	53.7%	433	373	2,099
Afghanistan	37.0%	402	684	39.5%	36	55	91
China	32.6%	167	345	69.7%	60	26	142
Vietnam	31.3%	68	149	80.0%	8	2	9
Hungary	30.0%	175	407	28.9%	24	59	172
Nicaragua	27.9%	7,255	18,668	53.1%	2,786	2,455	21,054
Uganda	26.0%	91	258	51.7%	15	14	34
Somalia	24.1%	143	449	67.9%	55	26	122
Philippines	18.0%	82	372	10.0%	4	36	94
Cuba	13.3%	321	2,080	31.9%	30	64	13,873
Yugoslavia	13.3%	53	344	9.2%	6	59	176
Pakistan	13.0%	63	420	57.8%	33	24	89
Liberia	10.5%	30	255	15.0%	3	17	32
Lebanon	7.0%	113	1,499	36.6%	56	97	222
Honduras	4.3%	18	398	7.4%	10	125	512
El Salvador	2.7%	667	23,805	2.7%	110	3,822	24,375
Guatemala	2.1%	45	2,086	5.0%	24	447	6,191
Haiti	2.0%	36	1,713	31.5%	6	13	399
Egypt	1.0%	8	754	0.5%	1	19	32
India	1.0%	4	379	15.0%	3	17	29
Bangladesh	0.2%	1	416	16.6%	1	5	10

a/ The total includes all nationalities, not just those listed here.

Note: Starting in May 1983, the INS kept asylum statistics by number of cases. Each case, or application, may include more than one individual. From June to September 1982 and October 1982 to April 1983, INS asylum figures were for actual number of individuals. To avoid inconsistency, this chart includes data only since INS data was based on number of cases.

This chart is based on data for asylum cases filed with INS district directors only. Many applications for asylum are filed with immigration judges, particularly in the context of deportation proceedings. The Office of the Chief Immigration Judge is developing a data system, but asylum statistics are not now available.

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

REFUGEE APPROVAL RATE BY INS OFFICES ABROAD
OCTOBER 1987 THROUGH AUGUST 1988
BY REGION AND NATIONALITY

	APPROVAL RATE FOR CASES DECIDED	CASES APPROVED	CASES DENIED
TOTAL	87%	70,874	10,785
REGION			
USSR	99%	17,758	11
Asia	89%	38,707	5,012
Latin America	84%	1,705	320
Near East	75%	6,063	1,987
Africa	67%	882	429
Eastern Europe	66%	5,759	3,026
COUNTRY			
South Africa	100%	17	0
Mozambique	100%	12	0
USSR	99%	17,758	11
Laos	97%	15,062	484
Albania	92%	71	6
Cuba	90%	1,533	162
Romania	90%	2,215	248
Vietnam	87%	19,692	3,046
El Salvador	85%	11	2
Afghanistan	84%	1,680	326
Bulgaria	81%	93	22
Czechoslovakia	76%	409	130
Iraq	73%	36	13
Cambodia	73%	3,916	1,467
Iran	73%	4,347	1,647
Hong Kong	71%	37	15
Ethiopia	66%	833	425
Hungary	61%	437	280
Poland	52%	2,532	2,337
Nicaragua	51%	161	153

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice.

Note: The total includes all nationalities. Nationalities for whom fewer than ten cases were approved or denied are not included in the country-by-country tally. For many nationalities, the number of cases "otherwise closed" exceeds the number approved or denied.

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IN THIS ISSUE:

On this, our tenth anniversary issue, Refugee Reports looks at several policies now being considered that are of critical importance to the future of asylum and refugee admissions. In the lead story, Bill Frelick examines the internal discussions at INS that led to a change in policy with respect to Nicaraguans. In the first Recent Development, Court Robinson looks at the factors that weighed in an Administration decision to shift 7,000 FY 89 refugee admission numbers from Asia to the Soviet Union................1

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INS SEEKS TOUGHER APPROACH ON ASYLUM, WORK AUTHORIZATION, TRAVEL, BUT FACES LEGAL CHALLENGE

Efforts by the Immigration and Naturalization Service (INS) to prevent onward travel for asylum seekers applying at the Harlingen INS office near the Mexican border have been halted at least until the end of January by a U.S. district judge.

The INS policy under challenge was put in place on December 16 in response to a dramatic increase in the number of Nicaraguan and other Central American asylum seekers entering the United States and applying for asylum at the INS office in Harlingen (see Refugee Reports, Vol. IX, No. 12).

Before December 16, the INS office in Harlingen had allowed asylum applicants filing there to travel onward, so that their cases could be adjudicated at other INS offices, many of which are located in metropolitan areas where the applicants would have vastly improved chances of finding legal assistance and other support.

By requiring that asylum applications be examined at the office where they were first submitted, the new policy, in effect, made further travel impossible. Extra INS examiners and support staff were sent to Harlingen to examine the applications quickly. The plan was that every applicant would be interviewed by an INS examiner before being granted work authorization. The examiner could deny work authorization if he found the claim to be frivolous.

The INS policy did not provide for a means to feed or shelter those who would be forced to wait near Harlingen, an economically depressed area on the southernmost tip of Texas, while their asylum applications were pending.

Soon after the policy took effect, the numbers of Central American asylum seekers in the Harlingen area grew, and their living space became increasingly cramped, uncomfortable, and unsanitary. Hundreds were staying in makeshift camps in fields, occupying abandoned buildings, crowding downtrodden hotels, and overwhelming church shelters.

U.S. District Judge Filemon Vela halted the INS policy on January 9 by issuing a temporary restraining order. That order freed hundreds of Central Americans to move to Miami, Los Angeles, and other places where they are more likely to find work, have the support of family and friends, and the assistance of legal counsel.

In Miami, a panic set in after the temporary restraining order, as busloads of Nicaraguans began arriving. The rate of arrivals of Nicaraguans and other Central Americans coming to Miami was probably not much greater than it had been over the course of the past several months (see Refugee Reports, Vol. IX, No. 12). But the impact of more than 200 Nicaraguans arriving in a fleet of Greyhound buses from south Texas was seen in Miami as a dramatic harbinger of things to come. Officials in Miami, with an estimated 100,000 to 150,000 Nicaraguan exiles, were predicting the arrival of 100,000 more in 1989. Mayor Xavier Suarez sought an emergency meeting with President Reagan, as well as with President-elect Bush, who happened to be fishing in the Florida keys at the time.

On January 13, the Miami Herald ran a lead editorial, "The Crisis Upon Us," which opened: "Within the next 48 hours, the droplets of Nicaraguan arriving in Miami will become a rivulet. Within days, that rivulet probably will become a torrent. It has the potential of swelling into a tidal wave that would engulf Greater Miami, causing social and economic destruction more severe than any American city anywhere has ever experienced."

On January 16, Martin Luther King Day, race riots broke out in Miami, touched off by the shooting of a black motorcyclist by a Hispanic police officer. The riots represented the boiling over of a host of tensions and grievances, but they were attributed, in part, to resentment in some sectors of the black community to the Nicaraguan influx.

INS Stance on Nicaraguans Shifts after Departure of Attorney General Meese Internal INS and Justice Department memoranda indicate that the December policy shift had been brewing for at least a month, as INS and Justice Department officials sought ways to modify a policy set forth by former Attorney General Edwin Meese that appeared to give Nicaraguan asylum applicants more favorable treatment than others from Central America.

In July 1987, Meese had said that Nicaraguans with a well-founded fear of persecution would not be deported, and called for an expedited process of granting work authorization to Nicaraguan asylum seekers (see Refugee Reports, Vol. IX, No. 8).

On December 2, Associate Attorney General Francis A. Keating wrote a memo to INS Commissioner Alan C. Nelson entitled "Texas Border Situation." The memo expressed deep concern at reports of large numbers of Central Americans, primarily Nicaraguans, crossing the border near Harlingen, and urged him to take immediate steps to augment the Border Patrol presence to deter illegal entries, and to increase INS examination capability at Harlingen to make possible on-the-spot adjudication of asylum claims.

Keating also said that he would urge "a prompt recission of the August 1987 memorandum" establishing the special Nicaraguan program, which he called "a contributing factor to the current situation."

A December 5 internal INS memo entitled "Nicaraguan Asylum, Harlingen Situation," from INS Deputy Commissioner James Buck, directs the INS staff to marshal arguments "which Keating may use to support the argument for recission of the Meese memo regarding Nicaraguans."

Memoranda Indicate Variety of Deterrent Measures The measures taken on the border to stem the onward travel of Central American asylum seekers fit within the context of a series of long- and short-term proposals being considered within INS to reduce the number of asylum applicants currently pending nationwide.

In addition to acting upon all asylum requests in the jurisdictions where they are

For refugees, and for all who work for refugee protection and who take such joy in their safe return home or in their resettlement, the deaths of five Southeast Asian school children in California last week were particularly hard to bear. All of us at the U.S. Committee for Refugees dedicate our work on this tenth anniversary issue of Refugee Reports to the families, the friends, the teachers, and the classmates of these children.

Central American refugees wait outside the INS office in Harlingen, Texas for their asylum applications to be processed. New York Times/*Wendy Watriss*

filed, the short-term measures proposed in an INS memorandum included other changes: reviewing all asylum applications on a last-in, first-out basis; reviewing all asylum applications before granting work authorization; and immediately communicating to INS field offices that "the Meese memorandum of July 1, 1987 [regarding Nicaraguans] does not require automatic granting of work authorization to asylum applicants whose claims are frivolous."

Intermediate actions proposed in the memorandum included: using all possible detention capabilities; increasing border enforcement; requesting the Justice Department to rescind its Nicaraguan deportation review policy; and pressuring the State Department to "secure the assistance of Mexico and Central American countries to slow down the flow of illegal aliens into the United States."

Suggested long-term actions included: charging fees for asylum and work authorization requests; giving INS district directors greater discretion in issuing work authorization; identifying "carefully selected offices where asylum applications will be accepted"; and considering increased refugee processing in Central America. "Seek additional refugee numbers in this area if needed," the memorandum suggests.

The December INS memo lists the expected results and benefits of these proposed changes, such as an overall decline in work authorization, more expedited asylum determination, and a reduction of caseload in Miami, Los Angeles, and San Francisco. The memorandum states, "The free ride which smugglers and their clients now have out of the Harlingen area will be disrupted, if not stopped."

Robert Rubin, managing attorney of the Immigrant and Refugee Rights Project of the Lawyers' Committee for Urban Affairs in San Francisco, told Refugee Reports, "What the INS calls a "free ride", we call "freedom of movement"; those they term the clients of smugglers, we call "refugees". Rubin is the lead attorney on the lawsuit bringing a temporary halt to the INS policy in Harlingen.

Government Fails to Follow Administrative Procedures Act An important element of the lawsuit, according to Rubin, is that the government failed to follow the Administrative Procedure Act (APA) of Notice and Comment, which requires the government to publish proposed rules and allow the public to comment before promulgating final rules that represent significant changes in government policy.

"It's a very democratic idea," said Rubin, "to say that the government has to talk with the people who will be affected by their policies before putting them into effect."

Back in 1982, the Office of Refugee Resettlement (ORR) was challenged on the basis of this law when it tried to cut refugee cash assistance from 36 to 18 months without first publishing a proposed rule change in the Federal Register. Some $5 million in benefits were restored to refugees in California.

Had the INS followed the APA, Rubin suggests, they would have seen the impact these changes would have had on Texas. "They would have had to go down and talk to local officials in Texas, who would have asked, 'Are you really interested in creating homelessness for 5,000 refugees?'"

Rubin said that further legal challenges to the INS plan will be raised, especially due process issues, such as denial of financial, emotional, and legal support and assistance to applicants restricted from traveling.

The INS would not comment on their approach to the temporary restraining order. "Our response will be in court," said Verne Jervis, an INS spokesman.

Work Authorization Likely Key New Battleground The INS has attributed the sharply increased number of asylum applicants to the granting of work authorization. A December 5 cable from INS Deputy Assistant Commissioner Ralph Thomas instructed INS field officers that asylum applications do not also constitute requests for work authorization. The cable said that work authorization requests must be made in writing by the asylum applicants.

The cable clarified the meaning of "frivolous" as a basis for determining whether or not to deny work authorization. "Determination of frivolity can be made on the basis of either the asylum application and supporting documentation or on these and oral statements made at the time of interview," Thomas said.

He directed that, barring unusual circumstances, applications should be presumed frivolous if the claim comes from (1) an individual "from a country where the government does not have a pattern of government sponsored persecution, does endeavor to prevent private persecution, and has a judicial system which is equitable and fair;" or if (2) the asylum applicant "is unable to specify any of the five grounds of persecution (race, religion, nationality, political opinion, membership in a particular social group);" or if (3) the applicant is ineligible for asylum on other legal grounds.

INS Pushes for Tougher Standard in Granting Work Authorization In a December 13 memorandum to Attorney General Dick Thornburg, INS Commissioner Nelson said, "Asylum applications have almost tripled in the past year due primarily to the more permissive approach to work authorization."

He said, "Additionally, when the standard for granting employment authorization to asylum applicants was lowered from requiring an applicant to establish a prima facie claim to eligibility to merely a nonfrivolous claim, it was anticipated that abuse would follow."

A prima facie standard is seen as more burdensome than the nonfrivolous standard by attorneys in and out of government.

Nelson urged that steps be taken "to prevent the existing situation" and to avoid having it proliferate.

Rubin challenged Nelson's memory on work authorization. "He is flat out wrong," said Rubin. "The regulations [governing work authorization] never said anything about prima facie standards for work authorization. It is incomprehensible how the INS Commissioner can erroneously report that too many have been given work authorization because the standard has been liberalized."

Work Authorization Could Become Discretionary Rubin said that even more significant than the contemplated change from a nonfrivolous to a prima facie standard for work authorization is a proposal being discussed by INS and the Justice Department making the grant of work authorization discretionary rather than mandatory.

Prior to a September 1986 suit, Diaz v.

INS, federal regulations provided that the INS could, in its discretion, grant work authorization to nonfrivolous asylum applicants. However, the Diaz decision stopped the INS from relying on its discretion to deny work authorization based on the applicant's manner of entry; failure to seek apparent safe haven in a third country; or whether the alien was responsible for the economic support of others. INS discretion in the granting of work authorization to asylum applicants was subsequently removed in federal regulations relating to work authorization.

"Our fear is that discretion will be the black hole within which work authorization will disappear," said Rubin.

A memorandum from Nelson to Keating on October 3 lends credence to this fear. In that memo, Nelson attributed the "chief cause" of the increase in asylum claims in FY 88 as "the change from a discretionary grant of employment authorization to a mandatory grant of employment authorization." He said, "We must end this abuse of the asylum system both to maintain the integrity of the asylum process and to prevent the entry of illegal aliens into the United States labor market consistent with the Immigration Reform and Control Act."

INS Memo Calls for Revamping Asylum Regulations--Less Central Control and Oversight

The October 3 memo from Nelson to Keating and the December 13 memo from Nelson to Thornburgh both propose significant revisions in proposed federal regulations governing asylum. The proposed asylum regulations have had a somewhat rocky history (see Refugee Reports, Vol. VIII, Nos. 9 and 11 and Vol. IX, No. 4). The latest version in April would have created a corps of specially trained asylum officers who would have been supervised by the INS central office. Critics of current INS practice--under which INS district directors make initial asylum determinations--welcomed the April 1988 proposed regulations for stressing the training of asylum adjudicators and for creating a more uniform approach nationally.

In his memo to the Attorney General, Nelson "strongly" recommends that asylum officers be supervised by INS district directors, rather than by the central office.

In the October 3 memo, Nelson wrote, "There is no inherent conflict between the enforcement concerns of the district director and his supervision of Asylum Officers."

The December 13 memo also urged that the Asylum Policy and Review Unit (APRU) in the Department of Justice be disbanded. Calling the unit "just plain financially wasteful," Nelson said, "the entire purpose of APRU and its continued existence should now be reviewed by your staff."

Roger Pilon, former director of APRU and now of the Cato Institute, defended the office, telling the Orange County Register, "The INS has a border patrol mindset. It finds it very difficult to shift gears when faced with a human rights case." Pilon noted several compelling cases in which the APRU intervened to prevent the deportation of refugees slated for removal by the INS.

Loye Miller, director of the Justice Department's public affairs office, told Refugee Reports that the APRU has been included in the FY 90 budget request at a level equivalent to last year's, suggesting that it will continue to operate.

INS spokesman Jervis would not comment on internal discussions of possible changes to the proposed asylum regulations.

Update

- At least three people were killed, and more than 4,000 residents of a Khmer Rouge refugee camp in Thailand were forced to evacuate when heavy artillery shelling hit Borai camp on the evening of January 20, according to a report in the New York Times. The attack, apparently by Cambodian government or Vietnamese forces, was presumed to be in retaliation against increased Khmer Rouge activity in the area, according to relief officials.

In the last six months, Khmer Rouge authorities have removed up to 12,000 civilians from Otrao camp in the northern sector of the Thai-Cambodian border, and another 8,000 from the southern camp of Ta Luan, and forcibly transferred them to "repatriation villages" inside Cambodia.

As Vietnamese troops continue to pull back from the border in anticipation of a withdrawal from Cambodia, the Khmer Rouge reportedly are moving in to take control of the territory.

In mid-November, shelling near Ta Luan left dozens dead and an estimated 300 wounded, but the Khmer Rouge denied the Red Cross access to provide medical assistance.

- On January 10, an explosion of unknown origin occurred in the Lutheran-church assisted repopulation project in Panchimilama, La Paz department, El Salvador. One Salvadoran was killed, and five injured, including an American and a Canadian.

Although there is no evidence linking the two occurrences, a bomb exploded on December 28 in the church office of Lutheran Bishop Medardo Gomez. Gomez's ministry has largely been devoted to displaced persons within El Salvador. In 1983, he was arrested, together with the head of the medical clinic, at the Fe y Esperanza (Faith and Hope) displaced persons camp run by the Lutheran church outside San Salvador. Some former residents of that camp now live in Panchimilama. The number of threats issued by right-wing death squads seemed to be on the increase in December. In one, the Mano Anticommunista Centroamericana (Central American Anti-Communist Hand), threatened "devilish religious workers."

- On January 25, the Immigration and Naturalization Service announced that it will build a four-mile ditch along a flat section of the Mexican border to deter illegal automobile traffic, according to a report in the Washington Post. Planned to measure 5 feet deep and 14 feet wide, the ditch will cost an estimated $2 million.

The idea drew immediate criticism from immigrant advocates. "It's a symbol, sort of like the Berlin Wall," said Jose Garza, acting vice president for litigation of the Mexican American Legal Defense and Education Fund. "That kept people in and this keeps people out."

A report from the Federation for American Immigration Reform (FAIR), however, supported the ditch idea and called for even more extensive deterrent measures. "Locking uninvited gatecrashers out is just good common sense," the FAIR report said.

- On January 3, the INS announced that it would continue until March 1, 1989 extended voluntary departure (EVD) status--nondeportation--for Polish nationals who have been in the United States since July 21, 1984. The announcement said that the 60-day extension "allows for the an orderly conclusion to the EVD program." In December 1987, legislation was passed establishing a special legalization program for Poles, Afghans, Ethiopians, and Ugandans who had entered the United States by July 21, 1984. The 60-day EVD extension provides time for those eligible to apply to adjust to permanent resident status. Application for the legalization may be made through December 22, 1989. Nearly all of the 7,000 Poles protected by EVD will be eligible for legalization.

Recent Developments

U.S. SHIFTS 7,000 REFUGEE NUMBERS FROM ASIA TO THE SOVIET UNION

In a controversial finale to eight years of refugee policymaking, the Reagan Administration announced that 7,000 refugee admissions numbers from Southeast Asia and the Near East have been transferred to the Soviet Union, where the backlog of refugee applications has reached 17,000. The cuts, which encountered strong protest from refugee groups, are particularly heavy in the Orderly Departure Program (ODP) for Vietnamese, which dropped by 5,500. The admissions ceiling for refugees in Southeast Asian asylum countries fell by 1,000, and the regional ceiling for the Near East and South Asia lost 500 (see chart on page 16).

At the outset of the fiscal year, the U.S. government allocated 18,000 admissions slots for refugees from the Soviet Union. The transfer raises the Soviet ceiling to 25,000, which will be used principally to admit Jews and Armenians.

The December transfer of numbers was necessary "to prevent backlogs from building to unmanageable proportions and to ensure that the next Administration and Congress have adequate time to consider what policies to pursue," said U.S. Coordinator for Refugees Jonathan Moore in a December 15 letter to the Senate Judiciary Committee.

Last April, the Administration authorized an additional 15,000 admissions spots for refugees from the Soviet Union and Eastern Europe, but did so by raising the overall ceiling for FY 88, rather than transferring numbers from other regions.

The U.S. Embassy in Moscow is receiving about 3,000 refugee applications per month, the bulk of them from Soviet Armenians.

The great majority of Jews who leave the Soviet Union do so with Israeli visas. At a transit point in Rome, they are given the choice of continuing on to Israel or applying for resettlement in another country. About 90 percent now choose to come to the United States, and application rates in Rome are about 2,500 per month, according to the State Department.

Roughly 50,000 Soviet applicants are projected by the end of FY 89, said Moore, who acknowledged that the transfer was a "short-term strategy, not a long-term solution."

Criticism from several refugee advocacy groups suggests that the Administration may have succeeded in creating two problems where before it had only one.

"Stopgap measures such as reallocating refugee slots from other regions do not solve the problem and, in fact, may harm refugees from other areas," said the heads of the American Jewish Committee (AJC) and the Indochina Resource Action Center (IRAC) in a joint letter to outgoing Secretary of State George Shultz.

"Rescue of Indochinese refugees must remain a priority," said the letter signed by AJC president Theodore Ellenoff and Le Xuan Khoa, president of IRAC. They urged the Administration to consult with Congress in order to secure additional refugee admissions numbers and funding for the current fiscal year.

Numbers May Go Unused Elsewhere, U.S. Says

Defending the decision, Moore said, "We are proposing to reallocate only numbers that might not be used in any event." About 3,000 of the ODP numbers were to be used for the resettlement of reeducation camp prisoners, he said, but negotiations with the Vietnamese government had yet to bear results. The other 4,000 numbers included in the transfer were part of a "semi-funded" allocation "for which only limited federal funding is available," and their use could be problematic in any region, Moore said.

Last July, the Vietnamese government announced that it would permit as many as 50,000 former reeducation camp prisoners and their family members to emigrate to the United States. But only three weeks later, Vietnam suspended the agreement, to protest what it called a "hostile" policy statement by a senior State Department official.

For many years, the U.S. government has had a standing offer with Vietnam to resettle political prisoners, but only about 3,500 former prisoners and their families have left through ODP since the program began in 1979. "We had hoped," said Moore, "that including numbers for them in the FY 89 refugee ceiling would be taken as a sign of our continued willingness both to negotiate and to resettle these persons whenever [the numbers] were made available."

So far, Vietnam has not responded, but "should there be a sudden change in the Vietnamese position after January," Moore said, "it will still be possible to make numbers available for the detainees."

The 4,000 "semi-funded" numbers involved in the transfer are part of 6,000 such numbers provided for in the FY 89 worldwide refugee admissions ceiling. The State Department has no funding for transportation or initial resettlement, so use of the numbers is based on a particular refugee community's ability to cover these costs with private resources. But unlike the fully private admissions numbers--4,000 of these are also included in the FY 89 ceiling--the semi-funded numbers have federal funding available for cash and medical assistance, and social services through the Office of Refugee Resettlement in the Department of Health and Human Services.

"We have no experience with the use of such numbers," Moore said in the Senate letter, "and cannot be positive whether we will be successful in getting them used this year." All 6,000 of the semi-funded numbers have been allocated to the Soviet Union, but Moore indicated that they could be used in other regions as well if private funding becomes available through the Near Eastern or Asian refugee communities.

ODP Cut Sends a "Negative Signal" The ODP ceiling of 25,000 that was originally established for FY 89 provided for the admission of 13,000 refugees--principally family reunification cases and former U.S. government employees and associates--which represented a substantial increase from last year's ODP ceiling of 8,500. Also included were 12,000

(continued on page 10)

U.S. REFUGEE AND ASYLUM PROGRAMS AND POLICIES: A 1988 CHRONOLOGY

The following is a chronology of U.S. program, policy and legislative decisions affecting refugees and asylum seekers during 1988.

January 1: Beginning today, and lasting through February 28, 1989, the government is temporarily prohibited from deporting, excluding, or denying visas to aliens based solely on "beliefs, statements, or associations which, if engaged in by a U.S. citizen in the United States, would be protected under the Constitution. The prohibition is a result of legislation temporarily repealing sections of the McCarren-Walter Act of 1952, which have permitted the government to bar the admission of foreigners on various grounds, including political beliefs, "sexual deviation," polygamy, and insanity.

January 4: The FBI begins reviewing the detention status of 2,100 Cubans at six federal detention facilities to determine each inmate's level of involvement in the rioting and hostage-taking at the federal detention center in Oakdale, Louisiana, and at the Atlanta Federal Penitentiary.

February 1: As of this date, and for the duration of FY 88, federal reimbursement to states for refugee cash and medical assistance costs will only be provided for a refugee's first 24 months in the United States, rather than 31 months.

March 3: The Office of Refugee Resettlement (ORR) tells state refugee coordinators that in FY 88, there will be a 38 percent cut in funding for state administration of refugee programs. The result, according to state refugee officials, will be the closing of state refugee programs in up to 11 states, the elimination of key services in others, and an overall increase in welfare dependency rates, which had fallen in FY 87.

March 15: By a vote of 88-4, the Senate approves a legal immigration bill that would provide for an annual ceiling of 590,000 immigrant visas, of which 470,000 would be reserved for family immigration and 120,000 for "independent" immigrants. Refugee admissions would not be subject to the immigration ceiling.

March 21: The Department of Justice announces that Polish, Afghan, Ugandan, and Ethiopian nationals who have been protected by extended voluntary departure (EVD)--a temporary reprieve from deportation granted by the Attorney General--will be able to adjust their status to that of temporary resident aliens, if they have been present in the United States since July 21, 1984.

April 6: Ambassador Jonathan Moore, the U.S. Coordinator for Refugees, reported to Congress the President's proposal to raise the FY 88 refugee admissions ceiling based on "an unforeseen refugee emergency" requiring an additional 15,000 places for refugees from the Soviet Union and Eastern Europe.

April 6: The Immigration and Naturalization Service (INS) proposes a revised version of its regulations governing asylum adjudication in the U.S. Proposed are a corps of specially trained asylum officers to conduct nonadversarial interviews with asylum seekers. Those denied asylum would be permitted to reopen their asylum applications with immigration judges in deportation or exclusion proceedings.

April 29: Ruling in a class action suit, Orantes-Hernandez v. Meese, a U.S. District Court judge orders the INS to stop employing threats, misrepresentation, subterfuge, or other forms of coercion to induce Salvadorans to accept "voluntary departure" to El Salvador.

May 4: The INS receives more than 1.5 legalization applicants prior to May 4, the end of the general amnesty registration. Voluntary agency personnel estimate that more than 80 percent of Salvadorans in the U.S. were not eligible for the legalization.

May 24: The Western Region of INS is ordered by a California federal court judge to release any child under its detention to his parent, guardian, or "other responsible adult party," if the child is otherwise eligible for release on bond or recognizance. The judge stipulates that any minor taken into INS custody must be afforded a hearing to determine probable cause in his arrest and on the need for any restrictions placed on his release.

June 13: The Cuban-American National Foundation (CANF) signs an agreement with the U.S. government under which CANF will privately sponsor up to 600 refugees for admission to the United States this fiscal year, the first group in modern times to sponsor refugee admissions to the United States without federal funding.

July 4: The United States abruptly suspends refugee processing out of the U.S. embassy in Moscow, which has been the route of entry for almost all Armenians leaving the Soviet Union under the U.S. refugee program. Less than two weeks later, however, the State Department partially reverses its position to allow an additional 400 people to emigrate.

July 27: INS proposes a revision in asylum procedure allowing immigration judges to limit the scope of evidentiary hearings on certain asylum claims in exclusion or deportation proceedngs. If an asylum applicant had "participated in the persecution" of others, committed a "serious crime" in the U.S., or poses a "danger to the security of the U.S., immigration judges would not need to consider evidence of the applicant's fear of persecution if returned to his home country.

August 14: An emergency supplemental appropriations bill (P.L. 100-393) is signed into law, which provides an additional $24 million for emergency refugee migration and assistance in FY 88. Of this, $6 million covers admissions of another 3,000 Soviet refugees in FY 88. The remainder supplements overseas assistance programs, primarily in Africa.

August 24: ORR reduces the period of eligibility for refugee cash assistance (RCA) and refugee medical assistance (RMA) from 18 months to 12 months.

September 30: For the first time since 1976, Congress passes all 13 federal budget appropriations bills prior to the start of the new fiscal year. Included is $794,306,000 for refugee assistance overseas, admissions, and domestic resettlement assistance.

October 5: President Reagan authorizes the admission of up to 94,000 refugees in FY 89, 10,000 of whom would enter the country with either partial or no funding from the government.

October 5: The House of Representatives passes the Temporary Safe Haven Act of 1988, which would establish criteria by which the Attorney General can grant temporary safe haven in the United States to nationals of countries experiencing armed conflict or other dangerous conditions.

October 13: The Family Support Act of 1988 (PL 100-485) is signed into law. Among other provisions, it requires states to provide 12 months of both transitional childcare assistance and Medicaid benefits for most families who leave public assistance rolls as a result of employment.

November 1: President Reagan signs into law the Genocide Convention Implementation Act of 1988, making genocide or attempted genocide a federal crime.

December 8: U.S. Attorney General Thornburgh announces he has expanded his parole authority to admit up to 2,000 Soviet emigres per month from Moscow plus all Soviet emigres in Rome who cannot be admitted to the U.S. as refugees.

December 13: The Reagan Administration announces that it has removed 7,000 refugee admissions numbers from Southeast Asian and Near Eastern regional allocations and transferred them to the Soviet Union, to accomodate growing backlogs in Jewish and Armenian applications.

December 16: Facing a dramatic increase in the number of Nicaraguan and other Central American asylum seekers passing through Harlingen, Texas, INS decides to revise its policy and begin extraordinary measures to adjudicate claims at the Mexican border.

December 24: About 400 Haitians are sent home after being intercepted by the U.S. Coast Guard as they attempted to sail to the United States.

Amerasians, who, for a two-year period created by special legislation passed in December 1987, enter the country with immigrant status, but are eligible for domestic refugee benefits.

With the Amerasian figure untouched by the cut, the ODP refugee ceiling falls to 7,500, below the FY 88 level. Some observers believe that the transfer of ODP numbers will lead to increased boat departures from Vietnam which can only heighten regional tensions.

"At a time when much progress has been achieved in making the ODP a viable and effective program," said Khoa in a January 10 letter to Moore, "the transfer of numbers sends a negative signal indeed," not only to the asylum countries in Southeast Asia, but to the United States' resettlement partners, and to Vietnam as well. "Such a precipitous transfer hints that Indochinese refugees--especially those seeking to leave Vietnam in a safe and orderly fashion--are not of priority concern to the United States," Khoa said.

Since ODP was established in July 1979 as an alternative to clandestine and dangerous flight by boat, more than 150,000 Vietnamese have departed their country legally, with about 60,000 coming to the United States. But in January 1986, Vietnam unilaterally suspended interviewing for the U.S. program, and demanded that U.S. officials clear up a backlog of 22,000 cases before any new ones would be made available. For the next 20 months, ODP movements continued, but at a slower pace, as the program bogged down in political bickering and policy shifts.

By the time ODP interviewing resumed in September 1987, boat departures were on a fast track. In the twelve month period that followed, more than 50,000 Vietnamese fled their country, principally to Hong Kong, Malaysia, and Thailand. Some of the asylum countries, in turn, responded to this new outflow with harsh new deterrents: boat pushbacks, state-sanctioned violence, and inhumane detention.

As the countries in Southeast Asia and the international community search for ways to preserve asylum for refugees while bringing to an end the dangerous and disruptive boat flows, a healthy ODP is seen increasingly as the cornerstone of any comprehensive solution.

"It is true that few political prisoners have been allowed to leave," said Shep Lowman, president of Refugees International, "but there are tens of thousands of others who are qualified to use the ODP refugee numbers. Despite clear indications that the Vietnamese are willing to cooperate in expanding the program and strong pressure from the asylum countries that this be done," Lowman told Refugee Reports, "the United States goes ahead and cuts ODP refugee numbers to last year's level."

Alternatives Proliferate for Soviet Emigres In order to accommodate the substantial backlog of Soviet applications, which already has people waiting up to one year in Moscow for a U.S. interview, Administration officials have proposed a variety of alternatives to refugee admissions backed with full federal funding.

On December 8, Attorney General Dick Thornburgh authorized the use of parole status for up to 2,000 Soviet emigres per month in Moscow, as well as any Soviets in Rome "who cannot be admitted under current constraints." Jewish groups in the United States generally have opposed the use of parole, saying it leaves people in a state of legal limbo.

A State Department spokesperson acknowledged that parole, which is a discretionary status, does have "serious disadvantages." Although parolees do receive work authorization, they are unable to adjust their legal status to that of permanent resident alien unless they qualify under other provisions of the Immigration and Nationality Act.

To remedy this disadvantage and as an alternative to parole, the State Department announced that it was drafting legislation to establish a new category of immigrant, for groups who do not meet either refugee or regular immigration criteria. According to draft language of the proposed bill obtained by Refugee Reports, up to 30,000 "special immigrant" visas would be available each year for people whose admission "is in the foreign policy interests of the United States." The bill would also allow all parolees who entered the country in 1989 to adjust their status to lawful permanent resident.

In an effort to reduce backlogs within the Soviet Union, an Immigration and

Naturalization Service (INS) officer returned to Moscow on December 13 after a six week absence to resume refugee processing. In addition, the numbers now available for the Soviet Union have been "front loaded," the State Department said, so that the entire annual allocation will be used in the first six months of the fiscal year, in order "to help relieve immediate pressures."

To supplement the number of refugees whose entry into the United States is fully supported by federal funding, up to 6,000 semi-funded numbers, along with about 2,500 fully private admissions spots, will be available for Soviet refugees in FY 89, the State Department said. A letter given by the U.S. Embassy in Moscow to Soviet applicants states, "Increasingly, Soviet citizens who immigrate to the United States will be asked to establish that they, with the assistance of their U.S. sponsors, will be able to support themselves without financial assistance from the United States... You should begin now to discuss finances with your relatives in the United States."

While some of these alternatives may be inevitable, Jewish groups in the United States are clear about their preference. "The only solution to this desperate crisis of refugees is to increase the overall ceiling, and funding," said a statement released by the National Jewish Community Relations Advisory Council, which comprises 13 national and 114 community agencies.

But will the Bush Administration seek additional refugee numbers and budget, given its campaign promises to reduce the federal deficit? This question was put to Secretary of State James Baker by several senators in his confirmation hearing before the Senate Foreign Relations Committee on January 19. "No decision has obviously been made," Baker said. "We really have more seeking admission now than we have the capacity, in terms of financial resources, to admit." He added that "we'll probably be coming back up here looking for some money."

CANADA'S MORE RESTRICTIVE ASYLUM SYSTEM IN PLACE

A more restrictive procedure for determining the refugee status of asylum seekers went into effect in Canada on January 1, resulting in the first deportation order under the new law on January 6.

Under the new law, asylum seekers first have to pass eligibility and credibility hurdles before their asylum claims are actually heard (see Refugee Reports, Vol. VIII, Nos. 3 and 6 and Vol. IX, No. 8).

All claims will now be determined by an immigration department adjudicator and a member of a newly created Immigration and Refugee Board, which is independent of the immigration department.

Those persons meeting the eligibility and credibility standards are now being admitted pending determination of their claims, and, according to the Canadian immigration department, will be permitted to work. Aliens not deemed credible or eligible are being deported. Those who appeal negative decisions will be removed from Canada pending a court decision on whether it will hear the appeal.

At a press conference on December 28, Minister of Employment and Immigration Barbara McDougall said, "I want to state categorically that removals will take place." The first person to be deported was an Indian who arrived in Canada on January 1. He was ordered deported on January 6, following a negative finding by the two-person panel.

The Indian, whose name was not revealed, was allowed 72 hours before leaving the country, since he entered Canada by air. Those applying at border crossings from the United States will be removed immediately upon a negative decision. In fact, the interviews will take place at the border crossing points themselves, so that rejected claimants will not have actually entered Canada.

Is the United States a "Safe Third Country?" One of the most controversial aspects of the new law was the notion of "safe third countries." This holds that if a refugee claimant passed through a country determined to be safe before entering Canada, he would not be eligible for consideration as a refugee in Canada, but would be returned to that country without having had his case heard.

As yet, the Canadian cabinet has not come up with a list of safe third countries. However, McDougall said, "At the present time, I am prepared to proceed with no country on the safe third country list."

Many nongovernmental organizations in Canada have expressed concern about the likelihood that Canada would designate the United States a safe third country and return Central American asylum seekers to this country.

In October, the Canadian Section of Amnesty International submitted a report to the chairman of the Immigration and Refugee Board of Canada which notes numerous cases in which bona fide Central American refugees at risk of torture or execution upon return to their home countries have been considered as economic migrants by the United States. Amnesty says the asylum seekers are "strongly discouraged from applying for asylum, or even coerced into accepting voluntary departure." It contends that U.S. detention policies prevent many Central Americans from effectively pursuing their asylum claims and says that the high standard of proof often required from Central American asylum seekers in the United States is "unreasonable."

The Amnesty report said the Canadian government assertions that it would not return genuine refugees "are meaningless if the definition of safe third country is questionable and the procedural safeguards to determine which countries are truly safe are inadequate."

Amnesty concluded that "if the Canadian Government were to send Central American asylum seekers to the United States to have their refugee claims determined there, this would increase the risk that Central Americans might be returned against their will to a country where they risk being arbitrarily detained, made to disappear, tortured, or executed."

The INS district director in Buffalo, New York, Benedict Ferro, told the Toronto Globe and Mail on January 7 that refugee applicants turned down in Canada at U.S. border crossings would face immediate U.S. deportation proceedings. "The vast majority of the ones we've processed in this area have been economic [migrants]," he said.

Therefore, although a refugee claimant has the right to appeal his Canadian rejection while in the United States, the U.S. government is under no obligation not to deport him while he is awaiting a decision on his appeal.

Asylum applicants who are admitted to Canada for a second hearing and then are denied asylum by Canada will not be accepted by the United States, and will, therefore, have to be deported to their homeland or some other country willing to take them.

It is even theoretically possible that an asylum seeker waiting on the U.S. side of the border for an initial interview in Canada could be deported from the United States before having that first hearing. This is unlikely, however, given that the procedure in Canada is working at a faster pace than U.S. deportation procedures, and because informal agreements have been made by immigration services on both sides of the border to time U.S. deportation orders to coincide with the Canadian hearing dates. However, several asylum seekers awaiting their initial interviews have been detained on the U.S. side by the INS since the new policy went into effect, according to the January 24 Toronto Globe and Mail.

Backlog of Cases Strains System Questions were raised last year about how Canada would handle the backlog of about 85,000 asylum applications pending at the end of 1987, with many guessing that the government would declare an amnesty for those who entered before January 1.

At her press conference, McDougall put such speculation to rest when she declared, "There will be no amnesty."

McDougall said that each applicant would be individually assessed for the credibility of his claim. She said that the process would start immediately and last about two years.

"Those judged credible by independent process will be allowed to apply for permanent residence," she said. "Those who cannot establish credibility of the refugee claim will face removal after due legal process, unless they leave voluntarily."

About 40 percent of the people in the backlog (33,907) have been in Canada less than six months. Sharp increases in arrivals of asylum seekers were reported before the beginning of the new year.

COURT BARS RETURN OF AFGHAN REFUGEES TO INDIA

A federal appeals court has ruled in favor of two Afghan refugees who were threatened with deportation to India by the Immigration and Naturalization Service (INS), despite the fact that India had indicated that it was not willing to accept them and could not give advanced assurance that they would not be returned to Afghanistan.

The two Afghans, Amanullah and Wahidullah, fled to India in 1983 after having been imprisoned in Afghanistan for their participation in anti-government demonstrations. When traveling to Canada in 1985, their flight made a stopover in New York, where they were apprehended by the INS. In exclusion proceedings, they applied for asylum before an immigration judge, who denied asylum and withholding of deportation despite a finding by the State Department's Bureau for Human Rights and Humanitarian Affairs that they had a well-founded fear of persecution upon return to Afghanistan.

They dropped their appeals when assured by INS that they would be not be deported to Afghanistan. However, in May 1987, when they were threatened with deportation to India without assurance from the Indian government that they would be accepted and not returned to Afghanistan, they challenged the government, which was enjoined from deporting them by a district court. The U.S. Circuit Court of Appeals for the First Circuit, in Boston, heard the government's appeal.

On several occasions, the UN High Commissioner for Refugees (UNHCR) commented on the case, saying that the two Afghans would be at risk of refoulement (forced return) if deported to India without advanced assurances that they would not be returned to Afghanistan.

In July 1987, the Indian embassy wrote to the INS saying that the two Afghans would not be accepted by India and that India does "not accept the theory of the so-called 'country of first refuge obligation.'"

Although the three judges concurred in *Amanullah and Wahidullah vs. Cobb* that the United States could not return the Afghan refugees to India without advanced assurances that it would not subject them to refoulement, they arrived at the same conclusion by different reasoning. While not able to agree on interpretation of the statutes in question, nor on the principle against indirect nonrefoulement, they were able to agree that since the INS had assured Amanullah and Wahidullah that they would not be deported to Afghanistan, and, since that promise could not be assured if they were to be returned to India, "the government should not be permitted to renege."

Judges Discuss Rights in Exclusion Versus Deportation Proceedings The legal disagreements seemed to hinge, for the most part, on differing interpretations of the law as it relates to excludable aliens--those whom the United States has refused to admit--as opposed to deportable aliens--those aliens who are already in the country and whom the United States is seeking to expel.

Judge Pettine found what he interpreted as a parallel provision in the statute relating to deportable (as opposed to excludable) aliens to the effect that "Congress required that there be prior inquiry to and assurances from that country that it was indeed willing to accept this alien." He reasoned that Congress intended to establish a common procedure for excludable and deportable aliens in this regard. "Congress could not have intended to permit the United States government to engage in the practice of placing refugees in orbit: in flight from country to country, none willing to accept them," he wrote.

Judge Coffin took a middle position, saying, "We are hampered by a certain congressional schizophrenia" because, in his view, the statutes relating to deportation and exclusion are not parallel. Nevertheless, he said, "I agree that it is sheer folly to send an alien to another country without any indication that the country will receive the alien, or, as in this case, where there is explicit notice that it will *not* accept the individual."

Judge Coffin also complained that the case presented a confusion of facts as well as a confusing statute. He said that the INS never clarified what procedures it commonly follows in such cases--whether, for example, the aliens are escorted or not, or how the United States determines what the third country does once it has the alien.

Judge Aldrich wrote that Judge Pettine made a "serious mistake" in holding that the same precondition must be met for excludable and deportable aliens. "This, I believe," wrote Aldrich, "disregards both the substantive difference, and interests, between refusing admission to an illegal alien, and expelling one that is already here."

Arthur Helton, director of the Political Asylum Project of the Lawyers Committee for Human Rights, who made the oral argument before the circuit court, said that the decision was significant because it could protect scores of other refugees from being sent to third countries.

"This is a victory not only for these Afghans, but for other refugees who may fall into this lacuna in protection," he said.

Deborah Anker, a lecturer at Harvard Law School and chair of the Refugee and Asylum Committee of the American Immigration Lawyers Association, said that the case "is most significant for the great weight placed on UNHCR's 'expertise' and knowledge regarding India's refoulement practices."

Meetings and Conferences

° "Amerasian Resettlement: Strategies for Success" is a conference to be held March 7-10, 1989, at the Radisson Hotel, Richmond Virginia.

The Conference is being convened by the U.S. Catholic Conference, under a grant from the Office of Refugee Resettlement.

Designed for practitioners, the conference will focus on a practical and clinical understanding of the emotional, educational, physical, employment, and religious needs of Amerasians and their family members, and organizing community resources to meet those needs.

Service providers will share their experiences and develop strategies for successful Amerasian resettlement.

The conference is being coordinated on behalf of USCC by Joanne Marcus, Program Director of the Connections Program at Catholic Charities, in Richmond. For more information, contact her at 4206 Chamberlayne Avenue, Richmond, Virginia 23227, (804) 264-2771.

° The International Counseling Center will hold its fourth national conference on May 23-24, 1989, at the Marvin Center, George Washington University, Washington, D.C.

The theme is "Crossing Cultures in Mental Health: Issues for the 90s." Mary Catherine Bateson will deliver the keynote address, and lectures and workshops will be presented by leaders in the fields of cross-cultural counseling and human services. Workshops will focus on topics such as the dynamics of transition and adaptation of refugees and immigrants, the special concerns of multi-ethnic clients, and the skills and competencies needed by professionals to counsel or deliver services across cultural lines.

For further information, please contact the International Counseling Center, 3000 Connecticut Avenue, NW, Suite 138, Washington, DC 20008, (202) 483-0700.

Resources

IRAC LOOKS AT HONG KONG REFUGEE SCREENING

The prolonged, indefinite detention of Vietnamese in Hong Kong violates international human rights guarantees, according to In Search of Asylum: Vietnamese Boat People in Hong Kong, a report now available from the Indo-China Resource Action Center (IRAC).

This 194-page book, with photos, contains a comprehensive analysis of the Hong Kong government's screening process, prospects for repatriation, living conditions in Hong Kong refugee camps, and a legal analysis of their status.

According to Dr. Le Xuan Khoa, IRAC president, the report reveals that the screening process now in place in Hong Kong more accurately reflects the international definition of a refugee than it did before the UN High Commissioner for Refugees became involved in the process. However, problems remain. "The government may be applying a presumption against refugee status or limiting to 10 percent the number of boat people found to be refugees," says Khoa. Also, government interpreters (interviewed by attorney Janelle M. Diller, author of the report) did not always comprehend the applicants' expressions in screening interviews, and no record preserving the original Vietnamese responses is made.

In Search of Asylum urges specific improvements in the detention centers, and appeals to the United Kingdom and Hong Kong governments to process quickly family reunification cases and unaccompanied minors.

According to Khoa, the report "strongly

advises that repatriation be operated on a voluntary basis, and that any agreement require a binding commitment by Vietnam not to penalize returning citizens for having fled, and a guarantee to allow effective monitoring and follow up of returnees by UNHCR."

Included in the appendices are the statement of understanding between the Hong Kong government and UNHCR, the joint communique between the British and Hong Kong governments and Vietnam, and other important reference material.

To order, send $15.00 to IRAC, with your return mailing address. Discounts are available for multiple-copy orders. For further information, contact Meg Nord at IRAC, 1628 16th St., NW, 3rd floor, Washington, DC 20009. (202) 667-4690.

LAWYERS COMMITTEE ISSUES REPORT ON DANGERS TO REFUGEES IN THAILAND

Pushbacks of Vietnamese boat refugees by the Thai government during 1988 have resulted in increased piracy by Thai fisherman, who have ravaged, raped, and killed hundreds of Vietnamese boat people, says Refuge Denied, a report just issued by the Lawyers Committee for Human Rights. At the same time as the need for protection has increased, there has been severe deterioration in an anti-piracy program in Thailand "involving the governments of Thailand and the United States, as well as the United Nations," according to the report.

For Cambodians, there are other dangers, which the report outlines. They are "exposed to cross-border conflict and are victimized by criminals without effective redress or protection," including virtual captivity in some camps by the infamous Khmer Rouge.

Refuge Denied urges an end to pushbacks and piracy, and calls upon the Thai government to "ensure respect for the basic human rights of Vietnamese boat people." It asks the Thai government to "take measures to improve living conditions in all camps, addressing such points as chronic overcrowding and mental health problems." It finds that the procedures used to admit Indochinese refugees into the United States are "unfair". According to the report, "applicants are not represented by counsel..., are not informed of the basis for a decision denying them refugee status, and have only limited rights of appeal."

Copies of the report are available for $10.00 from the Lawyers Committee for Human Rights, 330 Seventh Avenue, 10th Floor North, New York, NY 10001. (212) 629-6170.

WHAT ABOUT THE CONTRAS?

As U.S. funding for the contras dries up, speculation intensifies concerning their future. If the War in Nicaraguan Ends: Where Will the Contras Go? A Discussion Paper examines a variety of mechanisms through which former contras might enter the United States, including overseas refugee admissions, parole, immigrant and nonimmigrant channels, asylum, extended voluntary departure (EVD) or benign neglect.

The paper discusses provisions in the Contadora and Arias peace plans for the return of displaced persons, but notes that solutions within the region will depend on policies of each of the countries involved. "While officially welcoming any who want to return, it is unlikely that the Nicaraguan government would want all of the contras to return home," the report observes. Costa Rica and Honduras are shown to be ambivalent about contras staying in their lands.

The report cites an October 10 New York Times article in which the U.S. government was said to have assured Honduras that it "recognizes and accepts responsibility" for resettling the contras.

RPG doesn't itself come down in support of one solution over another, but concludes that the United States, Central American countries, and the international community should be consulting now on how best to deal with the contras' situation.

The report is available for $6.25 from RPG, 1424 16th St., NW, Suite 401, Washington, DC 20036. (202) 387-3015.

In the December 16, 1988 issue of Refugee Reports, the chart on page 6 contains two typographical errors. The number for Highland Lao at Chiang Kham camp should read 15,963. The number for Khmer at Khao I Dang should read 13,963. We thank a careful reader for pointing out these errors to us.

PLANNED ADJUSTMENTS TO FY 89 FUNDED REGIONAL REFUGEE ADMISSIONS CEILINGS*

I. ORIGINAL PLAN--As of September 1988

	84,000 Fully Funded	6,000 Semi-Funded	Total Level
AFRICA	2,000	--	2,000
S.E. ASIA--1ST ASYLUM	27,000	1,000	28,000
S.E. ASIA--ODP	22,500	2,500	25,000
E. EUROPE/SOVIET UNION	22,500	2,000	24,500
EASTERN EUROPE	(6,500)	(--)	(6,500)
SOVIET UNION	(16,000)	(2,000)	(18,000)
LATIN AMERICA	3,500	--	3,500
NEAR EAST & SOUTH ASIA	6,500	500	7,000
TOTAL	84,000	6,000	90,000

II. NEW PLAN

	84,000 Fully Funded	6,000 Semi-Funded	Total Level
AFRICA	2,000	--	2,000
S.E. ASIA--1ST ASYLUM	27,000	--	27,000
S.E. ASIA--ODP	19,500	--	19,500
E. EUROPE/SOVIET UNION	25,500	6,000	31,500
EASTERN EUROPE	(6,500)	(--)	(6,500)
SOVIET UNION	(19,000)	(6,000)	(25,000)
LATIN AMERICA	3,500	--	3,500
NEAR EAST & SOUTH ASIA	6,500	--	6,500
TOTAL	84,000	6,000	90,000

* According to the State Department, allocations as shown in new plan assume the status of reeducation center detainee negotiations with Vietnam as of January 1, 1989, permits reallocation of 3,000 fully funded numbers from ODP, and that availability of private funding will result in all 6,000 semi-funded numbers being used by Soviets. Depending upon the availability of private funding, some of the 6,000 semi-funded numbers might instead be used for refugees from Eastern Europe, the Near East, or Southeast Asia.

Source: U.S. State Department

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Refugee Reports

A News Service of the U.S. Committee for Refugees
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SOUTH TEXAS DETENTION PLAN GOES FORWARD

The Immigration and Naturalization Service (INS) has begun to implement a plan "to stem the flow of frivolous asylum claims filed by aliens seeking to stay in the United States," according to a February 20 announcement by INS Commissioner Alan C. Nelson.

Nelson said, "The firm, fair, and consistent application of our laws will meet the latest challenge of asylum abuse as a technique for fraudulent manipulation by those who would twist our generosity into personal gain."

The essence of the plan is to make quick determinations of affirmative asylum claims--on the same day as they are filed; to detain asylum seekers in the south Texas area--by preparing for a 5,000-person capacity tent holding area, and expanding other detention capabilities; and to begin prompt deportation proceedings for those denied asylum or for those apprehended before having had an opportunity to apply voluntarily.

The plan met with widespread and immediate criticism from private agencies concerned with refugee protection, as well as church and human rights groups. On February 21, the annual assembly of the Texas Council of Churches, representing Catholic, Protestant, and Orthodox Christian denominations issued a statement saying that it was "appalled" at the INS announcement. "Enforced incarceration of people looking for freedom from oppression, and food for their families, does not solve anything," said the statement. "We reject as inhuman and unjust the deportation of people back to war-torn countries where their unwanted presence will bring further unemployment, frustration, and perhaps even persecution for having left their countries in the first place."

The Catholic Bishops of Texas also issued a statement on February 21 saying, "We are about to witness the creation of the largest concentration camp on U.S. soil since the incarceration of Japanese Americans during World War II--a shameful page in our history." The Catholic Bishops said that the INS policy "exacerbates a volatile situation in the lower Rio Grande Valley" and ignores the conditions in Central America causing the mass influx of refugees to the United States.

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"The INS statement speaks of 'frivolous' applications," said the Catholic Bishops. "Apparently any applications by people who have suffered dreadfully from civil war are frivolous."

The Brownsville Ad Hoc Refugee Committee issued a statement coinciding with the announcement of the INS policy saying, "We are gravely concerned that thousands of persons will be detained with no access to counsel. This is a gross violation of due process of law. There are already too few attorneys who represent the interests of refugees in the Lower Rio Grande Valley; there is one in El Paso, and none in Laredo or Oakdale, Louisiana, places where it is rumored refugees will be shipped out."

Even the Wall Street Journal chimed in with an editorial saying, "Mr. Nelson said Monday that Nicaraguans were exaggerating their fears, but that depends on whether you regard economic collapse and political oppression as fearful."

Judge Lifts Restraining Order, Detention Policy in Place The plan came into effect with the lifting of a temporary restraining order by federal court Judge Filemon Vela, which had suspended an attempt by the INS in December to prevent asylum seekers from leaving the south Texas area after filing for asylum (see Refugee Reports, Vol. IX, No. 12 and Vol. X, No. 1).

With the green light from the federal judge, 500 additional INS personnel were being sent to south Texas, including 269 Border Patrol personnel, 74 INS adjudicators and support staff, and 141 INS, Department of State, and Executive Office of Immigration Review staff.

Within a day of the new policy going into effect, however, a sharp drop in asylum applicants became evident. On February 21, 233 asylum applications were filed at the Harlingen INS office. The following day, the number had dropped to 30; the next day, to 12. The previous week, when applicants filing in Harlingen were permitted to travel onward and pursue their asylum claims in Miami, Los Angeles, and elsewhere, about 800 per day were applying.

Of the 233 asylum applications considered on February 21, all but two--both Nicaraguans--were denied.

This appears not to be a single-day anomaly, but rather part of a trend towards far higher rates of asylum denial. Of the first batch of 1,613 cases forwarded to the State Department for advisory opinions, only 26 came back positive. Assuming all 26 would be granted asylum--which is not necessarily the case--the approval rate would be less than 2 percent.

Drop in Affirmative Asylum Filings Predicted, Apprehensions to Rise Nelson said that he had directed the Border Patrol to increase its enforcement activities in the Lower Rio Grande Valley. He said that the added resources devoted to enforcement "are expected to produce a significant increase in arrests and orders to show cause."

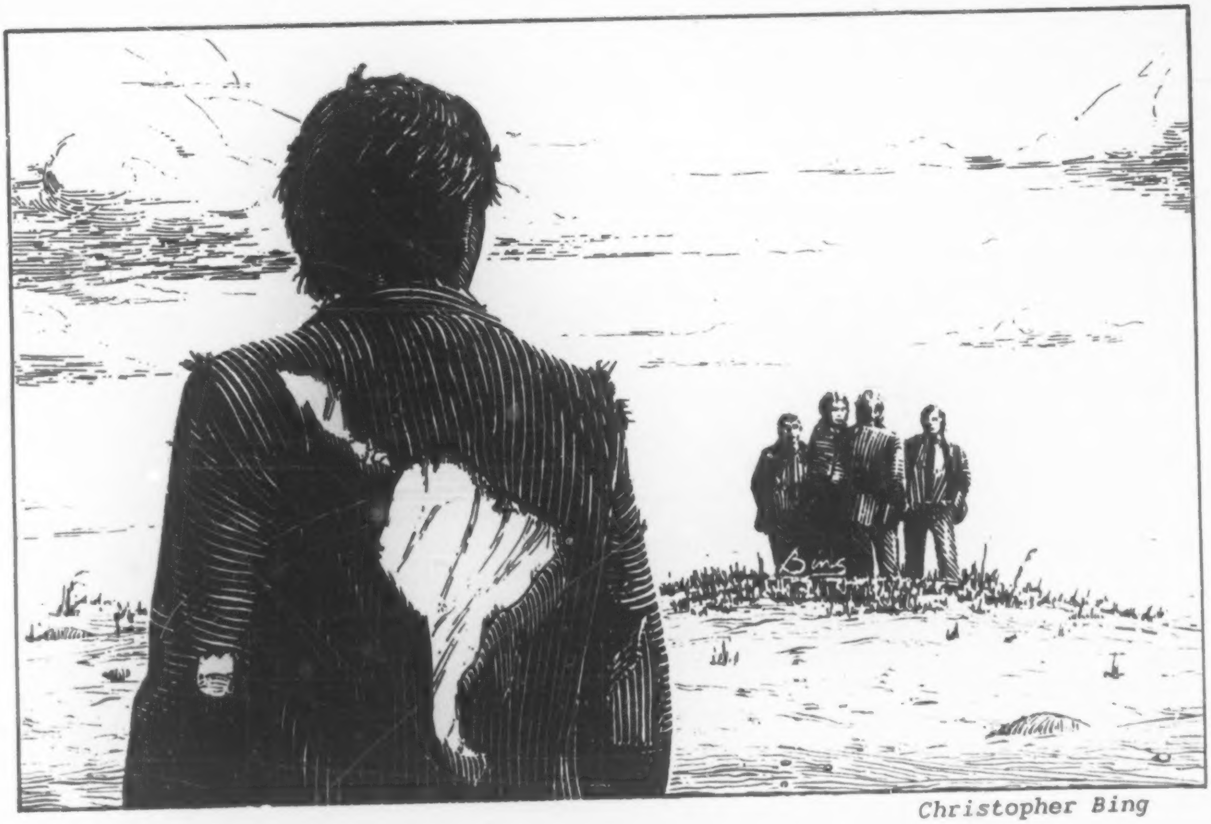
Nongovernmental observers agree with Nelson's prediction about an increase in apprehensions, and point out that a corollary to that will be a likely decrease in the number of Central Americans voluntarily coming forward to apply for asylum. "Affirmative applications will go down considerably if 95 percent will be denied and if the INS increases enforcement," said Ninfa Kreuger of the Border Association for Refugees from Central America (BARCA). Krueger said that most people won't have a chance to file voluntarily because they will be apprehended first. She said that the INS has recently instituted 24-hour-a-day helicopter surveillance of the border.

Robert Koulish of Proyecto Libertad said that the Border Patrol is stopping and arresting people on their way to the INS office. He said that the Border Patrol was circling the shelter in Brownsville and picking up those leaving.

Beefing up the Border Patrol presence is likely to reverse a recent trend in which affirmative asylum applications had outpaced apprehensions. In the first quarter of FY 89 (October through December 1988), the INS apprehended 10,294 Salvadorans, Guatemalans, and Nicaraguans; during that same period, those three nationalities submitted 23,690 affirmative asylum claims.

Nelson said that 16 Special Agents would be detailed to combat organized smuggling of aliens. "Alien smugglers and fraud facilitators, who thrive on the misfortune of illegal aliens, will be a major target of law enforcement components of INS," he said.

Detention, Deportation, Deterrence "Detention is the most efficient means of



Christopher Bing

ensuring the alien's appearance at the deportation hearing," said Nelson. "Deportation is the ultimate deterrent to illegal immigration," he added. Nelson said that single males would be detained at the Port Isabel Service Processing Center--known popularly as El Corralon, "the corral"--which would increase its capacity to 1,100 beds. Another 200 spaces were being made available at the Webb County Detention Facility, and 200 more detainees were being moved to the El Paso Service Processing Center. Nelson said that up to 5,000 additional spaces could be provided if necessary at Port Isabel by constructing tents.

Nelson said that discussions are under way with the Red Cross to provide housing for unaccompanied minors and family units. The Brownsville Ad Hoc Refugee Committee charged that this would put the Red Cross into the position of being a "jailer of children."

Kreuger said that the Red Cross does not meet the federal guidelines set up for the detention of alien children (see Refugee Reports, Vol. VIII, No. 11).

Armond Mascelli, manager of disaster operations for the American Red Cross, told Refugee Reports, "As an independent agency, we will operate within the parameters of our guidelines and principles. If the INS inhibited our work or our neutrality, we would have to disengage."

On the other hand, Mascelli said, he would not want to cut off refugees suddenly and leave them without food and shelter. He said that the Red Cross initially became involved when the policy went into effect in mid-December when the government was not detaining people but leaving them to fend for themselves in the fields and streets. In conjunction with the local Red Cross chapter and church groups, they set up a shelter in Brownsville, which housed 200 to 700 people daily. Now that the INS has changed its policy, the Red Cross is discussing options with the Community Relations Service of the Justice Department, a separate agency from the INS.

"We have a sense of responsibility for these people," said Mascelli. "We want to give them the best service possible and treat them in a fair way." That means, he said, giving them free access to and from the facilities. He said that he had no problem with INS calling for a daily census, "since we need that, too." But, he said, "there can be no prohibition to their walking away from the facility."

"At this point," Mascelli said, "we don't see this as a specific Red Cross responsibility. It is theoretically up to local, state, and federal government to handle. We cannot continue to do this indefinitely."

Kreuger's organization, BARCA, has focused on finding foster care for unaccompanied minors. She expressed concern that under the expedited procedures, children with undocumented parents present in other parts of the United States could be deported.

Kreuger said that she is trying to locate family and friends of unaccompanied minors in other parts of the country. She is hoping that they will be able to locate lawyers who are willing to file the INS Form G-28, the notice of intent to represent, that would enable the children to obtain a change of venue to have their asylum cases heard outside the Valley.

Access to Legal Representation In fact, having lawyers in other parts of the country willing to file the G-28 forms may help to relieve the tremendous burden on the few immigration lawyers operating in south Texas, by allowing aliens applying for asylum in the course of deportation proceedings to obtain a change of venue.

"Right now, we are trying to convince private attorneys to submit G-28s," said Haydee Sanchez of El Rescate in Los Angeles, "but pro bono attorneys want strong cases, and most of the political asylum applications coming out of Brownsville are almost empty."

Sanchez said, "I spoke to a client from Texas with a very strong claim and asked, 'Why didn't you tell this to the person filling out your application?' She said that she was in a room with 50 other people and never was very clear about what should be included on the form."

"We need to request permission to submit new applications," said Sanchez, "but the INS then questions our clients' credibility, asking, 'Which is the truth?'"

Kreuger said that much harm is caused by some church volunteers who know nothing about asylum, and even cab drivers, assisting Central Americans in filling out their asylum forms.

Nick Rizza, the national refugee coordinator for Amnesty International USA, said that organizations seeking to provide legal assistance are not allowed access to the detention areas to find clients in need of representation, unless those clients have first requested their presence. "We have received early reports from Harlingen that attorneys willing to offer their services pro-bono have been told that a G-28 must be filed before they may approach asylum seekers in the waiting area in the Harlingen office." Rizza said, "Amnesty International takes the view that organizations representing asylum seekers in the Rio Grande Valley be given access to such waiting areas, as well as places of detention, so that cases of critical concern can be identified and assistance provided."

He said, "Our organization strongly urges that asylum seekers be guaranteed access to legal counsel, be made fully aware of the process under which their cases are being reviewed, and that all nationalities be judged by the same standard."

Senators Bentsen, Graham, and Gramm Introduce Bill to Assist Central Americans On February 7, before the temporary restraining order was lifted, Senator Lloyd Bentsen (D-Tex.) introduced a bill, S. 372, that would define Central Americans as "entrants"--similar to the designation for Cubans and Haitians who entered in 1980. This would enable the Community Relations Service, which is currently authorized to respond only to Cuban and Haitian entrants and unaccompanied minor aliens, to assist Central Americans, as well.

Bentsen said that by its initial policy switch confining Central American asylum applicants to Lower Rio Grande Valley, "the INS had turned the entire Brownsville/Harlingen area into a massive detention camp." He said, "The policy adopted by the INS--which essentially dumps this problem into the lap of the people of south Texas--is simply intolerable."

Bentsen was joined by Sens. Bob Graham (D-Fla.), Phil Gramm (R-Tex.), and Albert Gore, Jr. (D-Tenn.) in introducing the bill. Graham of Florida said, "Clearly, any costs to local communities resulting from refugee arrivals stimulated by foreign policy decisions or a failure to control U.S. borders should be borne by the federal government."

Gore of Tennessee said, "This is of concern not only in Florida and Texas, but any Americans who can recognize the unfair impact which is being felt in these two states should understand why this legislation is wise."

Rep. Solomon P. Ortiz (D-Tex.) has introduced H.R. 869, a companion bill in the House.

Recent Developments

HOUSE HOLDS HEARING ON INDOCHINESE REFUGEES AT RISK

Continued pushbacks of Vietnamese boat people, and the forced relocation of refugees under Khmer Rouge control, were just two of the frightening new dangers for refugees in Southeast Asia in 1988, according to public and private witnesses testifying at a hearing on February 8 before the House Subcommittee on Asian and Pacific Affairs.

Responding to a dramatic increase of Vietnamese boat arrivals in late 1987, Thai authorities began to interdict and push boats back to sea in late January 1988. Although Thailand moderated its position in April, and its current official policy "is to provide asylum to those who actually land," said U.S. Coordinator for Refugee Affairs Jonathan Moore, "Thailand has consistently pushed off or redirected boats away from its shores over the past year." Moore cited a January 20 incident, when 33 Vietnamese reportedly were pushed off from Thailand's southern coast after a three-day stay.

In 1988, nearly 3,200 Vietnamese were pushed off from Thailand, according to figures from the UN High Commissioner for Refugees (UNHCR). Estimates, based on survivor accounts and reports from refugee officials in Thailand, of the deaths that resulted run in the hundreds.

Allegations made by several Vietnamese survivors suggest that Thai officials were involved in a number of pushback incidents that turned violent. Le Xuan Khoa, president of the Indochina Resource Action Center, cited "nine cases of ill-treatment and killings of more than one hundred Vietnamese boat people, perpetrated in most cases by Thai military personnel."

Included in the documents Khoa submitted for the record is a description of an incident that allegedly took place on June 27, involving the pushback of 61 refugees near Klong Yai on the east coast. According to an account given by a female survivor to a relief worker in Thailand, the group was towed out to sea at nightfall in three "small and old junks." After one boat capsized and broke apart, Thai soldiers allegedly opened fire on the other two, killing all but three boys, who managed to sail one of the boats back to Cambodia.

Under questioning from Rep. Stephen J. Solarz (D-N.Y.), chairman of the subcommittee, the State Department's Deputy Assistant Secretary for East Asian and Pacific Affairs, David F. Lambertson, acknowledged that the U.S. Embassy in Bangkok had investigated and protested the incident. It appeared that the Thai military had been involved "in some measure," Lambertson said. "The Thai government maintains it is preserving first asylum, but the record on the coastline suggests otherwise."

An official at the Thai Embassy in Washington would not comment on the specific allegations. A recent statement from the Thai government reiterated the position that "all boats are now permitted to land if they wish to do so, but if they wish to proceed to other destinations, they are also given assistance to do so."

"Even if this policy were strictly maintained, and it is not," said Court Robinson, a policy analyst with the U.S. Committee for Refugees, "piracy activity in the region and the perils of ocean travel, particularly in the monsoon season, dictate that Thai marine police and local officials should exercise the utmost caution, whatever the intentions of the boat people."

UNHCR statistics for 1988 indicate that 501 people are dead or missing from pirate attacks in the region, a five-fold increase from the previous year. The number of rapes and abductions jumped from 95 in 1987 to 185 in 1988.

Despite the continued interdictions and pushbacks, more than 7,000 boat Vietnamese--and another 2,500 Vietnamese who came overland through Cambodia--arrived safely in Thailand in 1988, according to UNHCR. New boat arrivals are not permitted by the Thai government to apply for resettlement in other countries, but instead are detained in Ban Thad camp, adjacent to Site 2 on the Thai-Cambodian border.

The United States and other resettlement countries moved more than 33,000 Indochinese refugees out of Thailand in 1988, the largest number since 1984. Included in this total were 10,295 Vietnamese, 16,379 Laotians, and 7,250 Cambodians. Despite Thailand's "great refugee burden," said Moore, "it is nonetheless difficult to continue to respond positively to Thai requests to keep offtake of refugees at levels of previous years when resettlement of new arrivals is prohibited and when the principle and practice of first asylum is in jeopardy."

Cambodian Refugees Face Khmer Rouge Abuses In the last eight months, up to 17,000 Cambodian refugees living in Thailand under the direct control of the Khmer Rouge have been removed from two camps and relocated to "repatriation villages" straddling the Thai-Cambodian border. Beginning in June, about 8,500 refugees were moved from the southern border camp of Ta Luan, leaving some 2,000 disabled, elderly, and handicapped people behind. Relief officials accused the Khmer Rouge of moving the group into a malaria-infested war zone to serve as munitions porters.

About 2,500 people returned to Ta Luan in November when Vietnamese forces in Cambodia shelled the area around Khao Phlu where they had been relocated. Although casualties were estimated at dozens of deaths and at least 300 wounded, the Khmer Rouge prevented access by the Red Cross.

Khmer Rouge authorities moved up to 9,000 more people out of the northern camp of Otrao between August and November into repatriation sites across the Dangrek mountains. An estimated 4,000 people remain in Otrao, but the Khmer Rouge have cut off access by international relief agencies. On Christmas day, the Khmer Rouge burned down their 10-bed hospital in the camp, reportedly as a gesture of their displeasure with outside interference.

With a fighting force numbering about 40,000, the Khmer Rouge are far the strongest of the three resistance factions fighting the Vietnamese troops in Cambodia and the Vietnamese-backed government in Phnom Penh. Their leadership has tried to offer an image of moderation, to persuade the world that they are not the same regime that was responsible for the deaths of more than one million Cambodians during a genocidal four-year rule from 1975 to 1979.

But a UN report issued in September accused the Khmer Rouge of "outrageous violation of human rights." Even in the showcase camp of Site 8, which houses 35,000 people, there is evidence of torture, murder, and summary executions, according to the UN report. Another 40,000 to 50,000 Cambodians, including many women and children, live in Khmer Rouge military encampments along the so-called "hidden border," totally inaccessible to international relief agencies.

Aid officials who work in the few Khmer Rouge camps that are not off limits say that the same terror tactics exist; they are just more subtle these days. "You won't hear of Khmer Rouge mass murders or even widespread torture like before," one official told a journalist in Bangkok. "But people disappear during the night, often with their whole families, and that's it. You never see them again. Are they killed? Are they just moved to another camp, out of our reach? We don't know."

Although relief officials estimate that up to 80 percent of the Khmer Rouge camp inhabitants are there involuntarily and would leave if they could, escape is difficult and dangerous. At Site B, a camp run by followers of Prince Norodom Sihanouk, officials told the Far Eastern Economic Review that defectors from the Khmer Rouge numbered 229 in the first ten months of 1988, nearly four times the number for the previous year, but a modest figure nonetheless.

"What efforts is the United States making to secure the right for people to leave the Khmer Rouge camps?" asked Solarz. "Embassy officials have visited Site 8 and stepped up visits with the Thai government," Lambertson replied. Discussions have also been held with the UN Border Relief Operation and the International Committee of the Red Cross, Lambertson said, but did not elaborate as to possible strategies or

"IT'S EASY TO BE SUCKED DOWN"

The following is a survivor's account of an alleged pushback incident that took place in the area of Klong Yai on the Thai east coast, as told to a relief worker in Thailand. Minor revisions have been made for the sake of brevity.

On June 27, 1988, at 6:00 p.m., a group of Thai soldiers tell 61 Vietnamese refugees that they are going to be transferred to a larger camp. They are divided into three groups and embarked in three small and old junks. The three junks are tied to each other, one after the other and to the soldiers' boat and towed to sea. The night is dark and moonless...

Thai soldiers start towing them to sea at a quite high speed so that the junks hit each other. After one hour of towing, one junk breaks up and all its people fall into the sea, but the soldiers do not mind and keep going. All the people drown except _____: in the darkness of the night miraculously she comes to catch hold of a plank floating around. She does not know in which direction is the land; she keeps floating all night. The next morning she sees land, but between lies a very dangerous swamp: it's easy to be sucked down. Using the plank as a pathway, she manages to cross the bog in ten hours... and lands at the edge of a forest.

Exhausted, thirsty, hungry, her dress completely torn, she still manages to walk to a nearby pagoda. The monks receive her, help her, and keep her in hiding. They give her a Thai name and keep her till the present day.

The woman has since been transferred safely to Bangkok and as of mid-February is awaiting departure for resettlement. According to another survivor's account, the soldiers towed the remaining two boats farther out to sea, and then opened fire with automatic weapons. Three boys who survived managed to sail one of the boats back to Koh Kong in Cambodian territorial waters.

timing. He did say that the issue "needs to be addressed in the context of a political settlement," suggesting that nothing might happen until Cambodians can begin to return home.

"Should we condition military aid to Thailand" in order to increase the pressure, Solarz asked. Lambertson responded, "I would not be in favor of that."

Security Improves in Some Border Camps

Moore praised the "real progress" that the Thai government has made in addressing the serious protection problems that have plagued the Cambodian border camps. The most substantial improvement, observers agree, has been the replacement in August 1988 of Task Force 80, the Thai paramilitary force in charge of border security, with the new Displaced Persons Protection Unit (DPPU).

"In general, we have heard nothing but praise, both from relief workers and the displaced Khmer, for the DPPU's even-handed and sensible approach," Moore said. All DPPU members have had military training, and two of the seven units deployed on the border are made up of women. Each unit includes a "moral support team," which assists with counseling and recreational activities.

Over the years, numerous charges of corruption and brutality had been leveled against Task Force 80 by international relief agencies and human rights groups.

Another improvement planned for the border is the expansion of Site 2, home to more than 170,000 Cambodians. Last November, a senior Thai official announced that Site 2 would be expanded by two square kilometers to relieve the severe overcrowding in the camp.

U.S. Reviews Khao I Dang Cases, Resettlement to End The U.S. Embassy in Thailand is conducting a full review of the cases of the 14,000 Cambodians in Khao I Dang who previously were denied refugee resettlement in the United States, Moore confirmed in his testimony. "Reconsideration would occur on the grounds that new information is available," Moore said. Robert DeVecchi, executive director of the International Rescue Committee, called the review "quite encouraging." He noted that a new Ethnic Affairs Office is in place in Bangkok to assist in

(continued on page 10)

LEGISLATION INTRODUCED RELATING TO REFUGEES AND ASYLUM SEEKERS

The start of each session of Congress begins with a flurry of new legislation, and the 101st Congress is no exception. Below are selected bills relating to refugees and asylum seekers introduced in the opening days of the new session. A few are bills introduced in past sessions, but not acted upon.

BILLS INTRODUCED IN THE HOUSE

H.R. 28 Fish (R-N.Y.) and Edwards (D-Cal.) January 3, 1989.

Establishes a commission to investigate racially motivated violence.

Action: Referred to the Judiciary Committee.

H.R. 45 Moakley (D-Mass.) and Pepper (D-Fla.) January 3, 1989.

"Central American Studies and Temporary Relief Act." Suspends the deportation of Salvadorans and Nicaraguans pending a report by the General Accounting Office on conditions in those countries. (An identical bill introduced in the last Congress passed the House, as well as the Senate Judiciary Committee, but did not reach the Senate floor, and died on adjournment. A companion bill is expected to be introduced in the Senate.)

Action: Referred to the Judiciary and Rules Committees.

H.R. 811 Pepper (D-Fla.) February 2, 1989.

Requires that the U.S. Coast Guard bring aliens such as Haitians interdicted at sea in U.S. territorial waters to shore for an INS interview, rather than holding the interviews at sea. Said Rep. Pepper in introducing the bill, "This procedure [holding INS interviews of Haitians at sea] gives rise to the suspicion that the would-be immigrants, mostly black, coming in by ship are discriminated against. All persons would have the same opportunity on the land, in the presence of witnesses, if desirable, to make their claims for immunity on the ground that they could not safely return to their homeland."

Action: Referred to Merchant Marine and Fisheries and the Judiciary Committees.

H.R. 852 Dornan (R-Cal.) February 6, 1989.

Increases the number of refugee admissions allocated in FY 1989, by adding 5,000 numbers to the Orderly Departure Program from Vietnam; adding 1,000 numbers for first-asylum refugees from Southeast Asia; and adding 500 numbers for refugees from the Near East and South Asia.

Action: Referred to the Judiciary Committee.

H.R. 869 Ortiz (D-Tex.) February 6, 1989.

Amends Title V of the Refugee Education Assistance Act of 1980 to provide resettlement assistance for Central American "entrants". This bill, and the one below, essentially expand the law that provided special funding related to assisting Cuban-Haitian entrants to include Central Americans now seeking asylum in the U.S. The bill would provide federal assistance to south Texas and other heavily impacted areas. It expands the capacity of the Community

Relations Service, a Division of the Justice Department, to aid areas hardest hit by the influx. Identical legislation was also introduced in the Senate.

Action: Referred to the Education and Labor Committee.

H.R. 870 Ortiz (D-Tex.) February 6, 1989.

Amends Title V of the Refugee Education Assistance Act of 1980 to provide resettlement assistance for certain Salvadorans and Nicaraguans. (See H.R. 869).

Action: Referred to the Education and Labor Committee.

BILLS INTRODUCED IN THE SENATE

S. 358 Kennedy (D-Mass.) and Simpson (R-Wyo.) February 7, 1989.

"Immigration Act of 1989." Increases annual immigration to the United States but also places numerical restrictions on immediate relatives of U.S. citizens by setting off such immigrants against other family-sponsored immigrants.

Establishes separate categories with separate worldwide levels of annual admissions for family-sponsored immigration and for independent immigration.

Establishes immigrant eligibility for job-creating investors: individuals who invest at least $1 million in the United States in an enterprise which creates at least 10 new jobs for Americans.

Makes available 55,000 visas to immigrants who achieve a threshold score on a point system, with points awarded for youth, education, English-language skills, and training and experience in fields suffering from a labor shortage.

Revises the current fifth preference category by eliminating immigration eligibility for married brothers and sisters of U.S. citizens.

Revises the current sixth preference category by eliminating immigration eligibility of skilled and unskilled workers whose occupations are deemed to require less than two-years training or experience.

Revises the current second preference category by eliminating the immigration eligibility of the unmarried sons and daughters of permanent resident aliens if the son or daughter is 26 years old or turns 26 before a visa becomes available.

Establishes an interagency task force to annually assess and report to Congress on the effects of immigration.

Action: Last year's version passed the Senate, but House did not act.

S. 372 Bentsen (D-Tex.) and Graham (D-Fla.) February 7, 1989.

Amends Title V of the Refugee Education Assistance Act of 1980 to provide resettlement assistance for Central American "entrants". Expands the law that provided special funding related to assisting Cuban-Haitian entrants to include Central Americans now entering the U.S. (See H.R. 869, above.)

Action: Referred to the Committee on Education and Labor.

(continued from page 7)

the review, and "new background material on the situation in the respective areas of Cambodia has been prepared and is being used," suggesting that a reconsideration may also occur through a new interpretation of existing case material.

The review process could be threatened, however, by a recent announcement from the Thai government that resettlement opportunities for Cambodians in Thailand will end on March 1. After that, Khao I Dang will become an educational vocational training center to prepare Cambodians for repatriation. "Persons who wish to be resettled in a third country," the Thai statement said, "must return to their country of origin and immigrate in an orderly fashion."

The U.S. Embassy has asked for a 90-day extension of this deadline in order to complete the Khao I Dang review, according to DeVecchi. "It is not certain what will happen, although at least a 45-day extension seems likely," said DeVecchi.

Thai officials have stated that, some time after March 1, the residents of Khao I Dang will be moved to a new facility on the border near the Ban Thad camp for Vietnamese refugees. Like Ban Thad, the new camp will be administered by UNHCR, but residents will not be allowed to seek refugee resettlement in other countries.

Interviewing of new immigration visa (IV) and humanitarian parole (HP) cases has also been temporarily suspended by the Thai government, State Department officials told Refugee Reports. The HP/IV program for border Cambodians was first announced by then Secretary of State George Shultz in September 1985. Since that time, just over 1,000 Cambodians have been approved for entry to the United States. Although hampered by complicated guidelines and restrictive criteria, but most critically by access problems imposed by Thailand, the program had enjoyed its most successful year of operation in 1988.

Also testifying were the Rev. Donald Larsen, chairman of InterAction's Committee on Migration and Refugees; and Shepard Lowman, president of Refugees International.

MAZZOLI OUT, MORRISON IN, AS CHAIRMAN OF HOUSE REFUGEE SUBCOMMITTEE

Rep. Romano L. Mazzoli (D-Ky.) was ousted on February 2 as chairman of the House Subcommittee on Immigration, Refugees, and International Law by a 16-to-5 vote of Democrats on the Judiciary Committee. Rep. Bruce A. Morrison (D-Conn.) was chosen to succeed him as subcommittee chairman.

Mazzoli had chaired the refugee and immigration subcommittee for the past eight years, and was coauthor, with Sen. Alan K. Simpson (R-Wyo.), of the original legislation upon which the Immigration Reform and Control Act was based. It combined an amnesty program for undocumented aliens with sanctions against employers who hire them.

A Democratic colleague on the subcommittee was quoted anonymously in the Washington Post as saying, "He never held caucuses. He never called anyone back. There was no collegiality, nothing." Rep. Barney Frank (D-Mass.), a member of the subcommittee, said, "Some people felt they had a hard time dealing with him over and above any differences on the issues."

But there were differences on key issues, as well. For example, Mazzoli was the only Democrat on the Judiciary Committee to oppose a bill introduced by Rep. Joe Moakley (D-Mass.) that would offer a temporary stay of deportation for Salvadorans and Nicaraguans. When the Judiciary Committee vote was tallied, June 30, 1987, the bill passed the committee by 20-to-15 votes along party lines, with all of the Republicans voting "no" along with Mazzoli.

More recently, Mazzoli wrote and introduced a generic safe haven bill setting forth the criteria by which the Attorney General could grant temporary safe haven to nationals of countries experiencing armed conflict or other dangerous conditions (see Refugee Reports, Vol. VI[illegible], No. 11 and Vol. IX, No. 10). The bill passed the House of Representatives on October 5, 1988. In introducing the bill, Mazzoli criticized granting of extended voluntary departure (EVD)--the legal term for the Attorney General's discretionary power to grant stays of deportation--on an ad hoc basis. Mazzoli said that EVD "has only the shakiest of legislative foundations, and indeed is outside the scope of current law."

Moakley's safe haven bill for Salvadorans and Nicaraguans has been reintroduced in this session of Congress as H.R. 45, but Mazzoli's generic safe haven bill has not yet been reintroduced.

Morrison, who has served in the House since 1983, said, "I am delighted and honored with the trust my colleagues have placed in me." He added, "Immigration issues, from the implementation of the Immigration Reform Act of 1986, to the looming issues of legal immigration and reform of the quota system, have been prime concerns of mine in Congress."

Update

- On February 14, the presidents of five Central American countries agreed to a plan to disarm the contra rebels, dismantle their bases in Honduras, and repatriate them voluntarily to Nicaragua. The agreement calls upon the foreign ministers of Nicaragua, El Salvador, Costa Rica, Honduras, and Guatemala to draw up a plan to end the presence of some 11,000 contra fighters inside Honduras's southern border with Nicaragua.

In exchange for the demobilization of the contras, Nicaragua pledged to release an estimated 3,000 political prisoners, allow opposition groups equal access to the media, and to reform electoral laws for balanced political participation in the 1990 elections.

On February 17, the Washington Post reported a contra leader, Oscar Sobalvarro, as saying that the contras would not disarm as long as the Sandinistas are in power in Nicaragua.

- On January 9, an outbreak of fighting occurred between the Honduran army and Salvadoran guerrillas in the vicinity of the Salvadoran refugee camps. Casualty figures were not reported.

"The guerrillas illegally entered our country and were intercepted while trying to get to refugee camps, where they rest," a Honduran military sopkesman told Excelsior, a Mexican newspaper. This was the second incident of 1989 involving Honduran troops and Salvadoran guerrillas. The Salvadoran air force has also reportedly bombed Honduran villages, according to Excelsior. The paper reported that "the accumulating tension of these incidents affects the 13,000 Salvadorans in the refugee camps of Colomoncagua, Mesa Grande, and San Antonio, who live in a virtual state of siege because of the presence of Honduran security forces who are slowly controlling the camps' activities."

- On February 24, U.S. Navy Captain Alexander Balian was found guilty by a military jury for failing to help a boatload of Vietnamese refugees on June 9 in the South China Sea. The jury found that the captain of the USS Dubuque had failed to conduct an adequate inspection of the seaworthiness of the refugee boat and to provide necessary navigational equipment, food, and clothing, according to the Washington Post. Subsequent to its encounter with the USS Dubuque,31 of the Vietnamese on the vessel died. Survivors reported resorting to cannibalism to survive.

- Vietnamese boat people who were attacked by pirates during their escapes display a striking lack of survivor guilt in response to their traumatic experiences, Dr. Stuart B. Kleinman reported at the annual meeting of the American Academy of Psychiatry and Law.

The findings, reported in the January 1989 issue of Clinical Psychiatry News, came as a surprise, since the victims had experienced rape, murder, beatings, and robbery at the hands of pirate gangs. Kleinman suggested that the reason for the absence of survivor guilt could stem from the emphasis on the family rather than the individual. "If one family member survives," he said, "it's as if the entire family has survived, and it is perceived as a victory for the family."

Some of the subjects in the study reported that they were able to cope with the trauma of escape because of prior experiences in mastering trauma, in some cases as re-education camp prisoners.

- Lawyers representing a group of about 1,000 Haitians in New York reached an agreement with the Immigration and Naturalization Service (INS), January 30, to settle a class action suit filed last September. The Haitians, whose claims for legal status under the new immigration law had been wrongfully delayed or denied because of alleged fraud, cannot now be deported and will receive work authorization, pending a redetermination of their denials.

STATE DEPARTMENT REPORTS ON HUMAN RIGHTS PRACTICES

The U.S. State Department released its *Country Reports on Human Rights Practices for 1988* *in February. The 1,560-page report represents the U.S. government analysis of human rights practices throughout the world. A portion of each country report concerns freedom of movement within the country and attitudes toward displaced persons and refugees. Below are excerpts from selected sections.* *All material is quoted directly.*

Copies of the report may be purchased for $33.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Refer to stock number 052-070-06535-4.

CUBA Cuban authorities strictly control emigration, but permitted several thousand persons, including hundreds of former political prisoners, to leave the island in 1988. Draft-age males were generally not allowed to leave the country. During 1988, the government continued to deny exit permission without explanation to a few persons who had been accepted into immigration and refugee programs of other countries.

It is a crime to leave the country without authorization. Persons who attempt to flee on small boats or inner tubes face sanctions ranging from fines to 3 years imprisonment. Cuban officials in 1988 claimed there were 140 prisoners convicted of "illegal" departure attempts. Intending legal emigrants frequently suffer various forms of government discrimination. Persons who apply may lose their jobs, houses, and ration books. Some are asked to repay the government the cost of their higher education. Once emigration formalities are completed, all family possessions and property usually fall to the state.

Cubans traveling as emigrants or refugees to other countries have no right to return for a visit or repatriation. The government continues to restrict the number of persons of Cuban origin permitted to visit their families on the island. In October, the government announced that Cubans who emigrated after 1978, including those who fled on the Mariel boatlift, would be allowed to visit relatives in Cuba on a limited basis (initially 10 persons per week). In the past, Mariel refugees were routinely denied Cuban entry permits.

EL SALVADOR An estimated 155,000 persons are still displaced within El Salvador by the conflict, down from a peak of about 525,000 in 1985. Approximately 130,000 of them still receive government assistance, and another 25,000 who are not registered with the government receive assistance from private relief organizations such as World Relief and the International Rescue Committee. Another 168,000 Salvadorans are refugees in other Central American countries and in Mexico, and more than 500,000 are estimated to be illegal immigrants in the United States.

As the level of violence falls, an increasing number of refugees are returning from abroad. More than 6,800 refugees returned from other Central American countries between 1984 and August 1986, according to the UN High Commissioner for Refugeees (UNHCR). Since then, another 2,100 chose to leave the Mesa Grande refugee camp in Honduras, where some had been living since the beginning of the war, to return to their homes in El Salvador.

There is no evidence of a government policy of harassment of individuals returning to El Salvador from abroad. The Intergovernmental Committee for Migration interviewed some 12,028 returnees from the United States between December 1984 and December 1987 and found no evidence of a policy of harassment. There have been no reports of comparable studies regarding returnees coming from other areas.

GUATEMALA Guatemala generated thousands of refugees and displaced persons in the early 1980s. Refugees are now repatriating as security and living conditions improve in areas of conflict. The number of returnees has increased each year since the inauguration of the civilian government, reaching about 3,000 in 1988 three times the number that returned in 1987. Nearly 4,500 persons returned to areas under government control in 1988. Although those who return from refuge in or outside the country or from service with the guerrillas may find that their land is now being farmed by others, the government guarantees that returning refugees will receive either their own land or land in newly settled areas. This has not always proven to be possible in practice, and a few repatriated refugees have sought to return to their countries of asylum.

HAITI Economic migrants continue to leave Haiti bound for destinations in more prosperous areas of the Caribbean or the United States. Pursuant to a 1981 agreement with the government of Haiti on the interdiction of undocumented migrants, approximately 5,000 would-be illegal migrants to the United States were repatriated to Haiti from international waters by the U.S. Coast Guard.

CAMBODIA Permission from the authorities is required to travel abroad, and it is rarely granted except for those on official government business. Other Khmer seeking to leave the country flee to the Thai border in order to escape the conflict or in the hope they can enter UN-supported refugee camps in Thailand. The Heng Samrin regime routinely imprisons those returning from border encampments affiliated with the CGDK. The Heng Samrin regime has agreed in principle to accept returning displaced persons from camps in Thailand, but has taken only one elderly woman so far because it has put off reaching an agreement with the UN High Commissioner for Refugees on the mechanics of repatriation.

THAILAND Over the years, Thailand has provided first asylum to over 1 million persons fleeing persecution in the three Indochinese states. In 1988, however, Thailand severely curtailed the availability of first asylum. Thai authorities began interdicting and redirecting Vietnamese boats trying to reach Thai shores, and on several occasions have forcibly returned to Laos Lao nationals who have crossed the border. While it appears that the authorities endeavor not to put asylum seekers at risk in carrying out these actions, on several occasions deaths and injuries have resulted from them. In addition, access to the Lao refugee screening system has been restricted, resulting in another weakening of the practice of first asylum. On the positive side, Thailand made significant progress in 1988 in reducing incidents of abuse by Thai paramilitary personnel of Cambodian displaced persons housed in camps along the Thai-Cambodian border.

VIETNAM Approval is required for all foreign travel.... In early 1988, however, the government announced that it would authorize private travel abroad for education, tourism, medical treatment, and visits to close relatives. The travel would be restricted to 3 months...and violators would be barred from further travel for 3 to 5 years.

In previous years the Vietnamese had reduced the number of departures of Vietnamese refugees to the United States and other receiving countries. After extended negotiations, the Vietnamese allowed renewed interviews of qualified refugees and immigrants by U.S. government officers in September 1987. This resulted in 1988 in a program whereby a number of Amerasians and of those seeking family reunification emigrated to the United States. In bilateral talks in July 1988, the United States and Vietnam reached agreement in principle on the resettlement to the United States of former reeducation center detainees. Subsequently, the Vietnamese unilaterally suspended talks on the implementation of this program.

UNION OF SOVIET SOCIALIST REPUBLICS The right to emigrate is restricted, as Soviet law does not recognize the right of citizens to emigrate by choice.... The Soviet system continues to restrict emigration... to those citizens desiring family reunification with immediate relatives abroad, and even those with immediate relatives abroad are not always permitted to emigrate. In 1987 this restriction was codified, although substantial numbers of Jews, Germans, Pentecostals, and Armenians emigrated in 1988 without regard to this requirement. A number of former political prisoners were given the option of emigrating in 1988, although they had no claim to family reunification. In September Soviet officials told U.S. officials that elimination of the first-degree relative requirement was being considered as part of proposed new legislation on emigration.

Meetings and Conferences

° "Genocide Watch," co-sponsored by the Institute for the Study of Genocide, Cultural Survival, the U.S. Committee for Refugees, and the World Council of Indigenous Peoples, will be held at the John Jay College of Criminal Justice on May 22-23, 1989. It is located at 899 10th Ave., New York, NY 10019. For registration material, or more information, call 914-255-7546 or 212-237-8631.

Resources

A NEW HANDBOOK FOR THE SECOND STAGE OF LEGALIZATION--AND BEYOND

ESL/Civics: Planning and Implementing English and Civics Programs is a new handbook published by the American Council for Nationalities Service and the National Council of La Raza. It is designed to help educational institutions and community-based organizations develop programs to help aliens handle the second stage of legalization.

More than 1.7 million immigrants applied for legalization under the Immigration Reform and Control Act in 1987 and 1988. By 1991, they must all apply for permanent residence. At the time of their interview, they are required either to pass a test in English and U.S. government or show that they are "satisfactorily pursuing" a course of study toward that end. Most of these applicants will need to enroll in classes to fulfill these requirements.

This comprehensive guide is for first-time ESL/civics programs, as well as existing programs that seek to expand their services to serve the newly legalized. It includes information on outreach, second-stage requirements, funding sources, intake, curriculum, and course material.

The handbook is available through the American Council for Nationalities Service for $12.50 per copy. Send check to ACNS, Attention: ESL/Civics, 95 Madison Avenue, 3rd Floor, New York, N.Y. 10016. (212) 532-5858.

POLITICAL PAWNS DESCRIBES THE DEPRIVATION OF LIFE AT THE THAI-CAMBODIAN BORDER

Political Pawns: Refugees on the Thai-Kampuchean Border, by Josephine Reynell, examines the camps at the Thai-border with Cambodia from the perspective of the people living within them. Set in a political/historical context, Reynell pays particular attention to camp security, living conditions, and the camp economy. While the aid program that provides emergency supplies to the camps is efficient, the author questions the acceptability of maintaining this large population on emergency rations in closed camps over a long period of time. Reynell considers the future of a population that is not only economically poor and in an extremely marginal environment, but is also deprived at the social, educational, and cultural level. Nearly a third of the population is under five-years old.

The book is published by the Refugee Studies Program at Oxford University, Oxford, England. A limited number of copies will be available for purchase in the United States through the courtesy of the U.S. Committee for Refugees. Send check for $14.00, made payable to the Refugee Studies Program, to: The U.S. Committee for Refugees, 1025 Vermont Avenue, NW, Suite 920, Washington, DC 20005. (202) 347-3507.

DIRECTORY OF AGENCIES ASSISTING ALIENS AVAILABLE

The National Center for Immigrants' Rights has just produced the fourth edition of its "Directory of Nonprofit Agencies that Assist Persons in Immigration Matters." It includes organizations that represent aliens in deportation or exclusion proceedings; provide assistance with visa processing; and that give other assistance, such as extensive advice or referrals.

The directory is designed to help attorneys, government agencies, or nonprofit organizations that come in contact with aliens needing referrals for assistance. Single copies are available for $5.00 from the National Center for Immigrants' Rights, 1636 West Eighth Street, Suite 215, Los Angeles, California 90017. (213) 487-2531.

U.S. REFUGEE PROGRAMS: FY 1990 BUDGET REQUEST

(dollars in thousands)

MIGRATION AND REFUGEE ASSISTANCE

	1988 Enacted	1989 Enacted	1990 Request
REFUGEE ADMISSIONS	$119,548	$140,000	$156,500*
REFUGEE ASSISTANCE			
East Asia	26,700	26,000	25,500
Africa	56,800	54,530	58,200
Near East	80,300	81,800	80,300
Western Hemisphere	12,400	11,020	11,200
Subtotal	176,200	173,350	175,200
OTHER ACTIVITIES			
Refugees to Israel	25,000	28,000	20,000
Other Intl. Organizations	9,702	12,600	10,300
Subtotal	34,702	40,600	30,300
ADMINISTRATION	8,000	8,000	8,000
TOTAL	$338,450	$361,950	$370,000

* Within the proposed admissions budget, the level of the reception and placement grant is being increased from $525 per capita to $560, restoring the cut made in FY89.

EMERGENCY REFUGEE AND MIGRATION ASSISTANCE

FY 88	FY 89	FY 90
24,000	50,000	10,000

The current balance in the ERMA fund is about $53 million, of which $23 million is earmarked to assist Afghan refugees this year.

REFUGEE AND ENTRANT ASSISTANCE

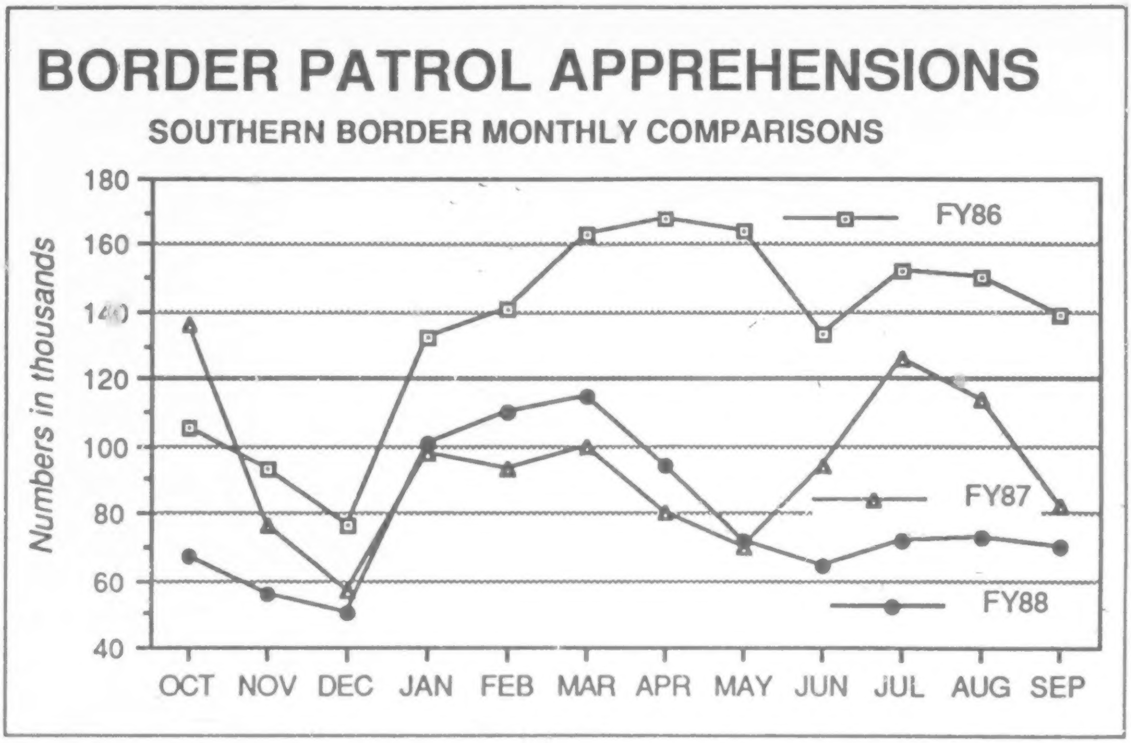
	1988 Actual	1989 Enacted	1990 Request
STATE-ADMINISTERED PROGRAMS			
Cash/Medical Assistance State Administration	233,274	261,820	201,659
EMPLOYMENT SERVICES (formerly "Social Services")	65,694	64,906	30,000
PREVENTIVE HEALTH	5,840	5,770	3,000
VOLUNTARY AGENCY (MATCHING GRANTS)	7,659	15,770	3,000
TARGETED ASSISTANCE	34,466	34,052	-0-
TOTAL	346,933	382,356	242,318

REFUGEE ADMISSION LEVELS The proposed budget for admissions is based on the following geographic projections:

GEOGRAPHIC REGION	FY 1988 Actual	FY 1989 Allocations	FY 1990 Estimate
East Asia, 1st Asylum	28,313	27,000	25,000
East Asia, ODP	6,702	7,500	11,500
Eastern Europe/USSR	28,239	25,500	22,500
Near East/South Asia	8,415	6,500	6,500
Western Hemisphere	2,497	3,500	3,500
Africa	1,588	2,000	2,000
TOTAL REFUGEES	75,754	72,000	71,000
Amerasians	332	12,000	13,000
TOTAL	76,086	84,000*	84,000

* Fully funded, following reallocation of 3,000 numbers from ODP to EE/USSR. The Presidential Determination ceiling includes an additional 4,000 numbers, unallocated by region, as an unfunded contingency, and up to an additional 6,000 refugee admissions which will be partially funded by the private sector and the Department of Health and Human Services.

Source: U.S. Department of State, Bureau for Refugee Programs and U.S. Department of Health and Human Services, Office of Refugee Resettlement.



Source: Immigration and Naturalization Service/U.S. Department of Justice

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ADMINISTRATION AND CONGRESS TO HOLD EMERGENCY CONSULTATIONS ON FY 89 REFUGEE ADMISSIONS

The Bush Administration will hold emergency consultations with Congress, perhaps as early as the first week in April, to address the need for additional refugee admissions from the Soviet Union, government and congressional sources have revealed. The numbers of Jews, Armenians, Christian Pentecostals, and other groups leaving the Soviet Union are nearly double what they were last year, and have far outpaced the U.S. government's budgetary and admissions levels in the current fiscal year.

While there is strong support in Congress for an increase in Soviet refugee admissions in FY 89, the most pressing question appears to be how to pay for it.

In a hearing before a House subcommittee on March 14, Secretary of State James A. Baker 3rd announced that the State Department was seeking $100 million in supplemental funding for the resettlement of additional numbers of Jews and other refugees from the Soviet Union in FY 89.

Appearing before the House Appropriations Subcommittee on Foreign Operations, Baker said, "Maybe I'm announcing something that I'm not supposed to announce here, but we are going to request an additional $100 million for 1989 because we can't make it" with the money or numbers that are currently available.

The following day, Press Secretary Marlin Fitzwater confirmed the news, but said that an FY 89 supplemental request was "still under review." A State Department official told The New York Times that a request probably would be sent to Congress before the end of March. If approved, $85 million of the new funding would go for refugee admissions and $15 million would be allocated for refugee relief and assistance overseas, Fitzwater said.

The Bush Administration will seek emergency consultations with Congress to increase the refugee admissions ceiling for the Soviet Union, Fitzwater indicated, although he would not specify a number. "The request at this point is for additional appropriations which would accommodate a higher ceiling to be determined later," he said. "But we've got to make sure that we have the funding before we can go ahead with

IN THIS ISSUE:

U.S. policymakers are now responding to a sharp increase in emigration from the Soviet Union, which, as yet, is not matched by sufficient funding to admit additional numbers as refugees to the United States. Court Robinson looks at several initiatives to increase refugee admissions and to come up with money to pay for them. He explores the potential effects of these efforts on other programs...1

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the ceiling increase."

Government and congressional sources told Refugee Reports that an increase of 25,000 was a likely proposal, which would double the current Soviet ceiling.

Last December, the FY 89 admissions ceiling for Soviet refugees was raised from its original level of 18,000 to 25,000. Of these, 19,000 admissions slots are budgeted for full funding by the federal government, which covers transportation, initial reception and placement costs, and domestic resettlement services. The remaining numbers are only partially funded. Because their use requires private funding for transportation and sponsorship services, there is considerable uncertainty that these numbers will be drawn on this year.

Of the fully funded refugee numbers now available for Soviet admissions in FY 89, 5,000 have been allocated for applicants in Moscow and 14,000 for those who leave the country with immigrant visas and apply for entry to the United States when they reach Rome. Most of the applicants in Moscow are Armenian, while 80 percent of those in Rome are Soviet Jews.

The backlog of applications in Moscow has reached 19,000, Fitzwater said, and 7,000 people in Rome are awaiting entry into the United States.

With applications for refugee status in Rome averaging between 4,000 and 5,000 per month, and with 10,000 of the 14,000 allocated, fully funded numbers already used up this year, U.S. admissions from Rome will come to a halt some time near the end of April, officials say.

"If additional funding is not found by next month," wrote Sens. Edward M. Kennedy (D-Mass.) and Robert W. Kasten, Jr. (R-Wis.) in a March 1 letter to their fellow senators, "refugees will be turned back, left to languish in Rome at great cost in care and maintenance, and the voluntary agencies involved in the program will be forced to close down."

Kennedy, Kasten Propose Alternate Source of Admissions and Resettlement Funds Given the concern about the huge federal budget deficit, some members of Congress are seeking to accommodate additional admissions numbers and resettlement costs while avoiding the need for supplemental funding. Chairman of the Subcommittee on Immigration and Refugee Affairs of the Judiciary Committee, Kennedy said, "We are prepared to use the emergency provisions of the Refugee Act to provide the additional admissions numbers, but this is only half the problem. The equally important other half is adequate funding for their processing and resettlement."

On March 1, Kennedy and Kasten introduced legislation (S. 489) that would transfer $200 million in unobligated funds from the State Legalization Impact Assistance Grant (SLIAG) program in order to cover the costs of admitting an additional 25,000 Soviet Jews and other refugees in FY 89.

Of these funds, $150 million would be shifted to Department of States' Emergency Refugee and Migration Assistance fund for both admissions and resettlement and for overseas relief and assistance. The remaining $50 million would go to the Office of Refugee Resettlement (ORR) to pay for domestic resettlement services through the voluntary agency matching grant program.

The Immigration Reform and Control Act of 1986 (IRCA), under which nearly 3 million undocumented aliens and seasonal agricultural workers in the United States have been able to legalize their status, also provided $1 billion in funds for each of four successive years beginning in FY 88 "to alleviate the financial impact of State and local governments that may result from the adjustment of immigration status...of certain groups of aliens."

The Bush Administration has proposed to rescind $300 million in SLIAG funding in FY 90, and another $300 million in FY 91. A report from the Congressional Budget Office indicates that less than $70 million of SLIAG money will be spent in FY 89.

"Clearly, longer-term solutions must be found to deal with Soviet migration," Kennedy and Kasten wrote, "but if we do not respond now to this emergency, we will be turning our backs to our longstanding commitment to assist Soviet refugees."

State Goverments, Hispanic Groups Sympathize, But Object to SLIAG Cuts While winning applause as an effort to assist refugees, the Kennedy/Kasten bill has drawn criticism from state governments and from advocacy groups working with undocumented and newly legalized aliens.

"It is a big mistake, and anyway much

too early, to say that states will not spend the legalization money," said Nancy Wittenberg, state refugee coordinator for Florida. "Those costs are out there," she told Refugee Reports. "It is just taking time to identify them."

"SLIAG is a new program with a slow starting time," Wittenberg said. Federal guidelines for the program regarding the documentation and recovery of costs, moreover, were "burdensome, complex, and almost a year late."

Mark Helmar, assistant secretary for program and fiscal affairs in California's Health and Welfare Agency, said, "We strongly resist any attempts to reduce SLIAG on a permanent basis." He predicted that, in a five-year period beginning in 1988, state and local governments would spend all the legalization money that currently was available.

"Congress has been getting erroneous information about this program," Helmar told Refugee Reports. "Service delivery--and costs too--becomes much heavier in the third and fourth years of the program," particularly in the areas of public health and education, as newly legalized aliens begin to adjust their status from temporary resident to permanent resident status.

"We are in complete sympathy with the plight of Soviets and other refugees," said Cecilia Munoz, immigration policy analyst with the National Council of La Raza, "but we are concerned that SLIAG funds should stay in the arena of IRCA-related activities. There are plenty of uses for these funds."

Jerry Tinker, staff counsel for the Senate Subcommittee on Immigration and Refugee Affairs, acknowledged that states had legitimate complaints about the SLIAG program as it is currently structured, but he wondered whether the full funding would be necessary. "No one had any idea what the costs would be when this money was appropriated. The $1 billion per year figure was just pulled out of the air."

The primary impetus for the Kennedy/Kasten bill, suggested Tinker, was a feeling that something should be done quickly to respond to the need for additional numbers and funding in the Soviet refugee program. "We didn't want to be accused of sleeping at the switch," he said. Besides, "if states can show they need it, we can always restore this money down the line."

Berman Bill Would Offer Guaranteed Payback

Rep. Howard Berman (D-Cal.) is expected shortly to introduce alternative legislation to the Kennedy/Kasten bill that should prove more popular with state governments and other supporters of the SLIAG program. Under the proposed Berman bill, $100 million of SLIAG money would be transferred temporarily to provide for additional refugee admissions in FY 89. The bill would return the money to the SLIAG program in FY 91.

"When Congress passed IRCA in 1986, we didn't just authorize funding for the SLIAG program. We also appropriated the money" for fiscal years 1988 through 1991, said Bari Schwartz, Berman's legislative director. "The Berman bill would borrow $100 million from SLIAG in FY89 and dedicate that money to refugee admissions," she told Refugee Reports. But unlike the Kennedy/Kasten bill, the Berman proposal would provide for a restoration of the funds by amending the immigration reform act to appropriate $1.1 billion for SLIAG in FY 91.

Schwartz described Berman's approach as "four-pronged." In addition to borrowing and then replenishing SLIAG funding, the bill would call for specific numerical increases in regional refugee ceilings for FY 89. Although the numbers were not final, Schwartz suggested that the Berman bill would not only mandate an increase in the Soviet ceiling, but also would restore the cuts made earlier in the fiscal year in Southeast Asia and the Near East.

Last December, the Administration provided an additional 7,000 admissions slots to the Soviet Union by shifting 5,500 admissions numbers from the Orderly Departure Program, 1,000 from the Southeast Asia first-asylum ceiling, and another 500 from the Near East/South Asia. Of the total, 3,000 were fully funded and the rest were partially funded.

The Berman bill would also expand the use of SLIAG funds to provide for additional outreach and anti-discrimination activities that are not allowable under current program guidelines.

"The key to the Berman bill is the payback," said Rick Swartz, president of the National Immigration, Refugee and Citizenship Forum. "States would have a guarantee that the SLIAG money is returned in FY 91."

WORLD REFUGEE SURVEY
1988 IN REVIEW
REFUGEES

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California's Helmar called the Berman bill "the kind of proposal that is worth looking at seriously."

According to several refugee advocates, the Berman bill offers another advantage over the Kennedy/Kasten measure. By ensuring that SLIAG funds are only borrowed and not removed, the Berman bill would prevent antagonisms developing between the Hispanic and Jewish communities.

"We are committed to finding a solution that will respond to the emergency for Soviet Jews without hurting anyone else," said Ellen Witman, legislative director for the Council of Jewish Federations. She promised that once the Berman bill is introduced, "extensive lobbying efforts on its behalf will be undertaken" by her organization.

Also, Swartz told Refugee Reports, "this is borrowed money, not new money," which could make the proposal more attractive to Congress than a supplemental appropriation.

"I don't know if they have the votes" in Congress for a supplemental, said Tinker, despite the support for Soviet Jews. Reprogramming existing funds seemed more likely, he said. "But the money doesn't have to come from SLIAG. One wing of a B-1 bomber would pay for the whole refugee program."

Money, Numbers For Next Year Seen As Too Low Even before Congress has addressed the fiscal and numerical shortfalls in FY 89, concerns are being raised about the adequacy of FY 90 levels, particularly for the Soviet

Union.

Sen. Patrick J. Leahy (D-Vt.), chairman of the Foreign Operations Appropriations Subcommittee, speaking in support of the Kennedy/Kasten legislation, noted that the Administration is seeking only about $370 million for refugee and migration assistance in FY 90.

"This request is totally inadequate to the needs," he said. "It may be as much as $100 to $150 million too low," given that 25,000 admissions spots are allocated to the Soviet Union out of a worldwide ceiling of 84,000, while some estimates suggest that 40,000 to 60,000 numbers may be needed for the Soviet ceiling alone next year.

Update

° The six-member Association of Southeast Asian Nations (ASEAN) has announced that, as of March 14, Vietnamese asylum-seekers arriving in Southeast Asian countries will no longer be automatically eligible for resettlement in third countries. Instead, their status "will be determined after screening procedures have been instituted in the context of arrangements to be agreed upon at the International Conference" scheduled in Geneva on June 13 and 14, according to an ASEAN statement released by the Malaysian Ministry of Foreign Affairs.

On March 7-9, Malaysia hosted an international conference on Indochinese refugees, which was held under the auspices of the UN High Commissioner for Refugees (UNHCR) and attended by 28 nations, including Vietnam and Laos. Government representatives unanimously endorsed a draft proposal for a comprehensive plan of action to respond to the continuing outflow of Vietnamese boat people, now in its 14th year.

The basic outline of the proposal, according to a report from two U.S. members of the International Council of Voluntary Agencies (ICVA) who attended the Malaysia conference as observers, includes:

1. humane measures to deter clandestine departures.
2. promotion of emigration from Vietnam through regular departure procedures and migration programs.
3. temporary refuge to all asylum seekers.
4. early establishment of a consistent, region-wide refugee status determination process, with guidance from UNHCR.
5. continued, and if possible, expanded resettlement of refugees and long-stayers.
6. voluntary repatriation of persons determined not to be refugees.

Although screening programs are not likely to be implemented before the Geneva conference in June, ASEAN officials decided to implement an immediate cut-off date "in order to deter a mass exodus from Vietnam" in the interval between the two meetings, the ASEAN statement said.

The U.S. representative at the Kuala Lumpur meeting, Ambassador Jonathan Moore, reportedly had urged that no cut-off date be announced until screening procedures had been implemented and commitments were in place to expand the Orderly Departure Program.

An ICVA statement presented in Malaysia specified several safeguards that should be included in regional screening programs, including: "the use of a carefully worded questionnaire that would assist in developing instances of possible past persecution as well as possible reasons to fear future persecutions; guaranteeing applicants legal counsel or assistance; maintaining a record of the proceedings to facilitate appeal and monitoring; and assuring a major role for the UNHCR."

According to a report by Agence France-Presse, the draft plan of action states that those screened out as unqualified for refugee status would be placed in a regional holding center run by UNHCR until they return home. "The preference of the ASEAN states is to have the holding center outside their territories," said Kopsak Chutikun, deputy director-general of the Thai Foreign Ministry's Political Department, in order to "reduce domestic discontent about the presence of a large number of refugees."

The U.S. members of the ICVA delegation were Robert DeVecchi, executive director of the International Rescue Committee, and Monsignor Nicholas DiMarzio, executive director of Migration and Refugee Services of the U.S. Catholic Conference.

° Jewel S. Lafontant has been named U.S. Coordinator for Refugee Affairs, replacing Ambassador Jonathan Moore. Lafontant was a senior partner in a Chicago law firm and deputy solicitor general in the Nixon Administration.

° Hundreds of refugees are crossing into Pakistan every day, most fleeing the capital city of Kabul, but also reportedly from Jalalabad, the capital of Nangarhar Province. Many observers see this as the verge of a major guerrilla offensive to defeat the Soviet-installed regime of Najibullah. As many as 39,000 Afghan refugees have crossed into Pakistan in the past three months, and as many as 100,000 more are expected in the next several months, according to the March 5 Washington Post. Many of those fleeing at this time are the relatives of government supporters, according to press reports.

° A first group of 75 Vietnamese boat people voluntarily repatriated from Hong Kong, arriving in Hanoi March 2.

Upon arrival, the Boeing 737 was met by Nguyen Can, a high-ranking Interior Ministry official, who said, "Normally you would be punished, but because you have recognized your error...you will benefit from a policy of leniency." But, Nguyen Can warned, "Those of you who try to flee again will be severely punished." The return was reported by the March 3 Washington Post.

In Hong Kong, Mike Hanson, refugee coordinator, said, "Channels of repatriation are now open and we hope more people would use them. People will realize that the only options are to remain in our camps or return to Vietnam."

° East German guards shot and killed a 20-year-old East German attempting to scale the Berlin Wall on February 5, the first confirmed killing of a would-be refugee since November 1986. Several other shooting incidents at the Berlin Wall have been reported recently, indicating an end to the no-shooting policy in effect since late 1987 (see Refugee Reports, Vol. VIII, No. 12). More than 175 people have been shot and killed trying to cross from East to West Germany since the Berlin Wall went up in 1961. Hundreds of thousands of East Germans have reportedly applied to emigrate.

Recent Developments

JEWS, PENTECOSTALS CHALLENGE INS DENIALS OF REFUGEE STATUS FOR SOVIET EMIGRES

Two recent reports by voluntary agencies challenge Immigration and Naturalization Service (INS) denials of refugee status to Soviet Jews and Christians in Rome who hope to be admitted to the United States under the U.S. overseas refugee admissions program.

World Relief, the assistance arm of the National Association of Evangelicals, sent a task force to Rome in January to review the cases of 99 Pentecostals denied refugee status, and issued a report of their findings on February 17. The Hebrew Immigrant Aid Society (HIAS) issued its own report February 10, reviewing the cases of 683 Soviet Jews in Rome who were similarly denied refugee status.

Until recently, emigres from the Soviet Union have received U.S. refugee status almost automatically. In FY 88, the INS approval rate for Soviets was 99 percent. But by mid-1988, that changed.

The pressure of more people asking to emigrate and being granted exit visas by the Soviet authorities, combined with budget constraints on the U.S. side, created a receptive climate for the asking of critical questions about whether all Soviet applicants had bona fide claims to refugee status or whether other mechanisms for their admission to the United States could be found.

A leaked memo of a meeting between State and Justice Department officials raising doubts about the legitimacy of INS interviewing of Soviet refugees in Rome and specifically questioning the claims of Soviet Armenians hit the front page of the New York Times on May 29, 1988 (see Refugee Reports, Vol. IX, No. 6).

On July 13, 1988, the National Security Council met to discuss the problem. An August 4 follow-up letter to National Security Advisor Lt. Gen. Colin Powell from then-Attorney General Edwin Meese said, "Current practices in processing Soviet emigres appear not to conform with the requirements established by the Immigration and

Nationality Act of 1980" and that "procedures followed by the Embassy in Moscow must be brought into sync with INS procedures."

Meese dispatched two INS officers to Moscow at that time. INS officers were directed to "be as generous as possible in their application of the refugee definition" and to give applicants "all possible assistance in articulating their claims."

On November 17, then-Secretary of State George Shultz asked the new Attorney General, Dick Thornburgh, to apply the uniform standard for refugee determination--a "well-founded fear of persecution"--in Rome and Moscow.

Denials Rise The first denials of Jewish applicants in Rome began in September. From September until the end of December, about eight percent of all Soviet Jews applying at the INS office in Rome had their applications denied. In January 1989, the percentage of denials more than doubled. Between September 1988 and February 1989, the INS denied refugee status to more than 650 Soviet Jews, according to the HIAS report.

World Relief reported that more than 150 Soviet Christians had their applications denied during roughly the same period. Percentages of denials varied from week to week, but averaged about 10 percent.

Parole is Offered, But Not Accepted On December 8, in response to growing numbers of refugee status denials, Thornburgh announced that he had expanded his parole authority to admit up to 2,000 Soviet emigres per month from Moscow, plus all Soviet emigres in Rome, who could not be admitted as refugees.

Those who enter the United States under "public interest parole" are not entitled to receive refugee travel, medical, and resettlement benefits and are not, as yet, given the option of adjusting their status to that of a permanent resident. Parolees do, however, receive work authorization and the same benefits and protections under the law as permanent residents. Historically, groups admitted under the Attorney General's parole authority have eventually been able to adjust their status through specific legislative initiatives, and government sources indicate that there is no reason that Soviet parolees would not eventually have the same option.

Nevertheless, HIAS insists that parole is not a viable option at this time for Soviet Jews. The HIAS report says, "Soviet Jews are keenly aware of the inferior status conferred by parole; they are unwilling to accept this status particularly because it means they cannot become permanent residents. Following the recommendation of the Rome office of HIAS, the denied applicants reject the offer of parole and instead request reconsideration of their applications." The report says that they continue to live in Rome, hoping that they will be granted refugee status on reconsideration or that there will be a change in U.S. policy.

Fairness, Completeness of INS Interviews Questioned The World Relief team critiqued INS interviewing procedures, finding wide discrepancies in approval rates from one INS examiner to the next and finding the interviews generally to be superficial and, in some cases, hostile to the applicants.

Lynn Buzzard, chairman of the task force and an associate professor of law at Campbell University College of Law, wrote to the INS district director in Rome saying, "Some cases where a denial would have seemed arguably valid were approved with apparently little inquiry. Others with long patterns of persecution were denied. Persons in the same church community and even in the same family group were treated disparately with no apparent reason, except that the interview was by a different case officer." Buzzard pointed out that more than 80 percent of the denials in motions for reconsideration appeared to have come from one case officer.

The World Relief report found that interviews averaged no more than 10 minutes in length, including translation time, and that the interviewing style is "abrupt, cold, formal, and mechanical." This, said the report, "destroys any potential for a sense of trust essential to effective communication of the highly personal information about the applicant's religious life and persecution."

The task force observed INS interviews. In one, the report noted that the interviewer never looked at the applicant. Rather, he spent the interview shuffling papers and talking to the translator. The applicants, the report found, have little idea of what information the interview is intended to elicit or the importance of the interview to refugee determination. "The interviewing process, as observed and reported, on no occasion invited the applicant to make any statement in support of his or her case for refugee status," the report noted. "All the questions were specific and direct. In some instances, attempts by applicants to present their 'story' were specifically cut off." The task force reported, "A near universal sense among applicants, whether accepted or rejected, was that they never really had an opportunity to speak."

World Relief charged personal bias on the part of INS officers, "either against the refugees generally or the Soviet Pentecostals in particular." Questions probing religious knowledge were said to be demeaning, and one interviewer "on frequent occasions belittled the experiences related to the applicant."

The report points out that Soviet Pentecostals have survived by exercising caution in revealing information about their lives and beliefs. It noted that the interviewing process compounds the natural reluctance of the refugees to speak.

Do Soviet Emigres Meet Well-Founded Fear of Persecution Standard? The U.S. statutory standard for admitting a refugee (or granting political asylum) is a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

The text of standard denial letters issued by the INS office in Rome states, "Although there is no question that the applicant was subject to a certain amount of discrimination, the facts presented are not sufficient to determine that the discrimination was so severe as to place 'serious restrictions' on his ability to become educated, to earn a living or practice his religion."

In his letter to the INS Rome district director, Buzzard said, "Without applying any presumptions of persecution, and without regard to whether one applies the 'well-founded fear of persecution' in a liberal or more restrictive manner, these applicants clearly meet the test."

The letter noted a pattern of persecution in many cases stretching back three generations, including harassment of Pentecostal churches, pressures on children to abandon their faith, and systematic job discrimination. "The styles of harassment may vary, and the intensity fluctuate, but the oppression and denial of rights persist."

Questions by INS examiners tended to focus on very recent incidents of physical persecution, such as arrests. "While such incidents are, of course, very persuasive evidence," said Buzzard, "it is clear that a well-founded fear doesn't require either very recent incidents or particularly striking personal incidents."

The HIAS report analyzes the standard denial letters issued by the INS office in Rome. It charges that the letters' focus on the severity of discrimination is contrary to the more liberal standard of a "reasonable person's" fear of persecution as affirmed by the Supreme Court in the Cardoza-Fonseca case (see Refugee Reports, Vol. VIII, Nos. 3 and 7). "For most Soviet Jews," said the report, "the memory of previous waves of toleration followed by persecution is still fresh in their minds. They believe that if tensions within the Soviet government or between the Soviets and the West change, then the Jews could be in the same circumstances they were in under the Tsars, Stalin, or Khrushchev. The memories of the pograms, of the Pale, of the Ukraine, and of Stalin do not fade." Given the unpredictable nature of the treatment of Jews in the Soviet Union, the report concludes that "it is reasonable for Soviet Jews to fear persecution on account of their religion if they return."

The HIAS report charges that INS is using a narrower standard. "INS Rome applies the guidelines set out in the Handbook [UN Handbook on Procedures and Criteria for Determining Refugee Status] in an extremely narrow and selective fashion with an eye toward denial only," the report contends.

The World Relief report holds that "persecution in a modern totalitarian state is rarely the type that includes overt beatings and imprisonment, specific examples which INS officers appear to be looking for." The report says that "the discrimination is more subtle, though more pervasive," infecting the entire culture and weighing cumulatively on the persecuted minority. "INS Guidelines and court decisions," the report argues, "clearly recognize that persecution may be found in such cumulative practices even when no single experience might rise to the level of persecution, but this standard is not applied."

Presumptive Eligibility HIAS contends that Soviet Jews should be given a presumption of eligibility for refugee status based on the pattern of persecution directed against them. "The notion of applying a 'presumption of persecution' to the situation of Soviet Jews is hardly a revolutionary idea," said the report. "There is a precedent for it in the case of refugees from Indochina and, indeed, precedent in the operation of an informal presumption in favor of Soviet Jews up until last fall."

Applying such a presumption would shift the burden of proof on the applicant, says the HIAS report. Soviet Jews would still undergo individual interviews, but once they proved membership in the social group (i.e., of Soviet Jews) the INS officer would assume that they were "refugees" unless that assumption was rebutted by persuasive evidence to the contrary.

HOUSE HEARING EXAMINES U.S. ASYLUM POLICY OPTIONS

In his debut as chairman of the House Subcommittee on Immigration, Refugees, and International Law, Rep. Bruce A. Morrison (D-Conn.) signaled an active and involved role for the subcommittee in U.S. asylum policy. The March 9 hearing on that subject featured six panels of witnesses, the participation of 11 members of Congress, and a packed hearing room.

Alan C. Nelson, commissioner of the Immigration and Naturalization Service (INS), said that more than 30,000 asylum applications had been filed in Harlingen, Texas between June 1 and December 31, 1988, 96 percent of which were from Central Americans. Nicaraguans accounted for 52 percent of the Central American applicants; Salvadorans, 24 percent; Guatemalans, 12 percent; and Hondurans, 12 percent.

Nelson attributed the seven-fold increase in asylum applications over the past four years to the employer sanctions provisions of the Immigration Reform and Control Act (IRCA), which has made it increasingly difficult for undocumented aliens to find employment, so that "the work authorization which has become associated with an asylum claim has in itself become a goal for many Central Americans."

"Most of the Central American arrivals appear to be economic migrants rather than applicants who seek refuge from political persecution," he said.

He said the the Supreme Court's *Cardoza-Fonseca* decision, which he characterized as relaxing the standard used to decide asylum cases, also increased the attractiveness of the asylum option.

In response to the influx of "the widespread abuse of asylum as a means to enter the United States," Nelson outlined the INS enforcement plan that went into effect February 21 (see also, *Refugee Reports*, Vol. X, No. 2):

- increased Border Patrol activity;
- expeditious processing of asylum applications at the port of entry;
- for aliens in the U.S. illegally who apply at Harlingen, fair and expeditious adjudication of asylum claims and, if the claims are denied, issuance of orders to show cause and warrants of arrest, and ultimately, deportation, if ineligible for any relief;
- Detail of necessary INS, Department of State, and Executive Office of Immigration Review staff.

Nelson said that although the average processing time for an asylum application in the Harlingen district has been reduced to one day, "no step in the normal adjudication process has been omitted."

As of March 6, 2,567 aliens were in detention pending completion of their deportation hearings. Since February 21, 182 orders of deportation had been entered, of which 103 had been executed, Nelson said.

Nelson also reported a drastic fall off of "walk-in" asylum applicants. During the period the temporary restraining order was in effect--allowing asylum applicants to file in Harlingen and continue on to destinations within the interior of the United States--applications averaged 454 per day. From February 21 to March 6 the average dipped to 43.5 per day.

Morrison questioned the growing numbers of Central Americans in detention in south

U.S.
IMMIGRATION
OFFICER

Border Patrol officer listens to detainees at INS facility in Bayview, Texas. At the time of the hearing, 2,567 persons were detained. *Frank Johnston, Washington Post*

Texas, saying, "It looks to me like an impending disaster."

Nelson said that he would not characterize the situation as an immigration emergency, and he suggested that there has been a drop in recent arrivals. He also said that military facilities might be used to house detainees, if necessary.

Pro Forma Advisory Opinions Morrison challenged the contention that applicants are receiving individual attention. He noted that in 350 of 400 cases, State Department Bureau for Human Rights and Humanitarian Affairs (BHRHA) personnel stationed at the Port Isabel facility in south Texas appended a yellow sticker onto the application form saying that it did not have specific information on the applicant and referring to the BHRHA's human rights report on the country of origin. He called it "a travesty of justice."

Paula Dobriansky of BHRHA testified that "we do not have a nation-specific approach, but rather apply the same standards to aliens from all countries, including those from El Salvador and Nicaragua."

She said that most of the Central American asylum applicants "in their written applications make only vague and generalized claims of persecution such as 'the guerrillas will kill me' or 'I don't like Communists.'" She said that they usually fail to provide substantiation of their persecution claims. Dobriansky said, "INS experience to date indicates that 98 percent of the Central American applicants *do not* have valid asylum claims." She said that many of the applicants write frankly that they have come in search of employment, and said that nearly 500 recent applicants submitted identical, all-purpose applications. She said that appending the yellow sticker in such cases was justified since the applications themselves in so many cases were identical.

When pressed on the discrepancy in asylum approval rates for Nicaraguans and Salvadorans (the former, approved at a rate of 53.1 percent in FY 88; the latter, at a

2.7 percent rate), she responded that El Salvador is a country where the government "promotes democracy and direct elections are permitted."

In what was seen as a signal of more active oversight of asylum policy, Morrison mentioned that he plans to hold a separate hearing on whether INS detention policy discriminates against certain alien groups. He also said that he and three other Congressmen had written a letter to President Bush requesting emergency consultations to increase the number of refugees admitted to the United States in FY 89. (See lead article.)

Private Witnesses Challenge Government Claims Three immigration attorneys working closely with Central American asylum seekers strongly challenged the government's claim that the expedited asylum hearings were fair.

Linda Yanez, a private attorney in Brownsville, Texas, said that the Central Americans arrive hungry and frightened, yet are treated by the INS examiners in a humiliating and intimidating manner.

Linton Joaquin, staff attorney with the Central American Refugee Center (CARECEN) in Los Angeles, said, "We have interviewed dozens of Central Americans with strong asylum claims who never had the chance to fully present their claims." He noted, "The large majority of applicants both in Los Angeles and Texas are not represented by attorneys and not familiar with which facts and evidence might be relevant to support their claims."

He said that it was particularly important that interviewers attempt to elicit all relevant information from unrepresented applicants. "Instead," he said, "the adjudicators themselves admit that the average interview lasts only fifteen minutes, and this includes taking biographical information from the applicant." Joaquin said that interviews lasting from 5-to-10 minutes are not uncommon, even in cases that are not deemed "frivolous".

He challenged Commissioner Nelson's assertion that the INS officers adjudicating these claims have received additional training in asylum law and in current country conditions.

He cited the case of a senior INS interviewer in Los Angeles who in deposition testimony identified the President of El Salvador as "Ortega" and admitted he did not know the name of the political party in power there.

"Typically," he said, "no attempt is made to probe the applicant for information beyond the face of the asylum application, which is awkwardly worded and nowhere calls for an applicant to present his or her reasons for leaving the home country."

Robert Rubin, managing attorney of the National Refugee Rights Project in San Francisco, acknowledged that the new INS policies will result in quick deportations for persons with frivolous asylum claims. "In their broad sweep, however," he suggested, "these policies cannot avoid subjecting many other persons with bona fide asylum claims to sham adjudications in which there is scant possibility of being able to express the real fears and trauma they have experienced."

Once Policy Is Announced, Critic Charges, Virtually No Individual Exceptions Allowed Rubin, who was the lead counsel in the lawsuit that brought about the January temporary restraining order (see Refugee Reports, Vol. X, No. 1), blasted the INS for its failure to make humanitarian exceptions to its no travel policy. He said that the INS claimed initially that travel restrictions would not apply to applicants when "necessary to unify immediate relatives or to meet overriding humanitarian...concerns."

However, Rubin cited specific cases that contradicted the INS's claim. He cited the case of a 69-year-old Nicaraguan woman who testified under oath how she waited for several days outside the INS office before being allowed to submit her asylum application, only to be told that she lacked the necessary fingerprint chart. Forced to walk four miles to the police station to obtain the fingerprints, she returned to the INS office and spent another three nights sleeping on a piece of cardboard awaiting her interview. When she finally was interviewed, Rubin said, she described how her property had been confiscated in Nicaragua due to her political beliefs. She also told the INS that she had a daughter lawfully residing in California, with whom she intended to stay. The INS refused to grant the request to transfer her case and confined her to the south Texas area, he said.

Rubin said that such cases are illustrative of the INS's general failure to make case-by-case determinations when a policy is adopted with a particular goal in mind. "The stated goal of the travel restriction policy was to deter the filing of frivolous asylum claims," said Rubin. "Once stated, it colored each adjudication conducted by the agency and essentially precluded an objective assessment of the individual case."

Rubin said that the INS was ultimately forced to concede in litigation that not a single humanitarian exception was granted despite "numerous requests."

He termed the latest immediate detention policy with quick adjudications a "self-fulfilling prophecy" resulting in the rejection of virtually all claims.

Policy Recommendations Several panelists, including members of Congress, made far-reaching policy recommendations, including legislative proposals. Rep. Romano L. Mazzoli (D-Ky.) announced that he and Rep. Hamilton Fish, Jr. (R-N.Y.) had just reintroduced a bill establishing statutory guidelines for granting temporary safe haven (see Refugee Reports, Vol. VIII, No. 11 and Vol. IX, no. 10).

Several of the private witnesses endorsed the idea of temporary safe haven, at least for Salvadorans and Nicaraguans. But the testimony of the General Accounting Office (GAO) endorsing this legislation came as a surprise to observers. "The Safe Haven legislation passed by the House of Representatives during the last session of Congress appears to us to be a practical and humane approach to dealing with the U.S. immigration issues posed by Central America," said Nancy R. Kingsbury, director of foreign economic assistance issues in the GAO's National Security and International Affairs Division. She said, "A 'get tough' policy by the INS regarding asylum applications may have an impact on reducing the number who apply, but does not have an impact on the very severe conditions that are motivating Central Americans to come to the United States and thus may not reduce the number of illegal Central American aliens entering our country."

INS Commissioner Nelson strongly opposed granting safe haven or extended voluntary departure (EVD)--a temporary withholding of deportation exercised under the Attorney General's discretion. He said, "There's no such thing as a temporary refugee."

Dan Stein, executive director of the Federation for American Immigration Reform (FAIR), supported the INS position, saying, "Special administrative statuses such as EVD and Safe Haven only compound the problem of illegal immigration, especially if granted to frivolous asylum seekers." He said that EVD sets the stage for mass movements, and is part of the problem rather than part of the solution.

FAIR called upon Congress to reverse the standard of a well-founded fear of persecution that was affirmed by the Supreme Court's Cardoza-Fonseca decision. "Asylum applications should be granted only where the applicants can show it is 'more likely than not' the applicant will suffer persecution, a higher burden than the current 'mere probability' [sic] standard."

Stein also said that asylum claims should only be accepted from aliens who had not passed through "any country where a claim for consideration as a refugee could be filed with a U.S. consulate or an international agency," a position that would preclude all overland asylum seekers from Central America. Stein also recommended that asylum applications not be accepted from aliens who enter the United States illegally, absent good cause, and that asylum applicants denied by an INS district director be barred from renewing their asylum claims before immigration judges in deportation proceedings, unless the alien could demonstrate changed circumstances or previously unavailable evidence.

Rick Swartz, president of the National Immigration, Refugee, and Citizenship Forum, argued in favor of safe haven legislation introduced by Rep. Joe Moakley (H.R. 45), which would grant a temporary stay of deportation for Salvadorans and Nicaraguans. He said that the migration of Central Americans should be understood in the context of flight from war and that EVD would promote U.S. foreign policy and national security interests. He cited a letter from El Salvador's President Napolean Duarte in support of the Moakley/DeConcini bill, which said, "My fundamental objective has been to introduce democracy and restore peace to my country... I am convinced that temporary safe haven is the single most important initiative the U.S. can now take to help my nation achieve this aspiration."

Doris Meissner, senior associate of the Carnegie Endowment for International Peace, said that a case could be made for EVD on foreign policy grounds "if a genuine effort toward peace in the region were underway and the agenda was to back up diplomacy and political change with the economic recovery initiatives that are so desperately needed in the region."

However, she said, such a shift in U.S. foreign policy has yet to occur, so that "EVD will serve only to weaken legitimate immigration control further." She said that granting permission to work would also strengthen the magnet effect and increase migration.

Meissner was critical of the INS--of which she formerly was the acting commissioner--for choosing actions that have been "sensational and crisis-oriented" in response to a situation that has been building for at least a year.

She said that the immigration service's "mishandling and neglect of the asylum responsibility has been chronic, predating IRCA by at least five years."

She charged that asylum decisions reflect foreign policy biases. "Poles, for example, who are members of Solidarity receive asylum virtually automatically, while Salvadorans who were active in teachers' unions or peasant cooperatives are routinely denied for lack of evidence of persecution."

She criticized asylum interviews, saying they are brief and devoted to seeing that forms are correctly filled out, rather than probing the line separating political from economic migration.

Although saying that she had always believed that asylum adjudications properly fell within the purview of the INS, Meissner reported that she had seen too many attempts at internal reform fail. "I have reluctantly concluded," she said, "that the asylum mandate will not be properly carried out unless it is removed from the hands of both INS and the Department of State."

Meissner suggested the development of a corps of specially trained asylum officers, supported by a refugee documentation center, under the Executive Office of Immigration Review in the Department of Justice.

"The sad irony," said Meissner, "is that if we had been more circumspect some years ago, when the vulnerabilities of the system first became evident, and had made the investments that were needed, we would very likely not be experiencing the widening breakdowns that we face today. Instead, the quick-fix responses of the past have, over the long term, resulted only in a weakened ability to respond to growing flows." She said that this pattern is being repeated today.

Meissner said that effective immigration control and deterrence "flows not from the threat of border police and detention centers," but rather from knowledge that decisions will be made quickly and fairly and that repatriation will follow for those found to be unqualified. Meissner concluded, "Until the political asylum decision system faithfully conveys these verities, today's debate is likely to be one more round of saber-rattling over a problem where we have continued to be content with a system that is ineffective and sullies sacred national principles because we have been unwilling to take steps that are needed to correct it."

ALIENS HAVE RIGHT TO FREE SPEECH, PART OF IMMIGRATION LAW FOUND UNCONSTITUTIONAL

A U.S. district judge has ruled that aliens lawfully in the United States have First Amendment rights and that parts of the Immigration and Nationality Act (INA) are unconstitutional.

The case, American-Arab Anti-Discrimination Committee v. Meese, came about as a result of deportation hearings against seven Palestinians and a Kenyan accused of being members of the Popular Front for the Liberation of Palestine (PFLP). The government held that their membership in the PFLP made them deportable because the organization distributes literature advocating world communism (see Refugee Reports, Vol. VIII, No. 6). These provisions of the immigration law are holdovers from the McCarthy-era McCarren-Walter Act of 1952.

Following the constitutional challenge, the Immigration and Naturalization Service (INS) dropped the subversion charges, but continued to seek the aliens' deportation by charging six nonimmigrants with visa violations and the other two, who are permanant resident aliens, with violating another section of the law that prohibits affiliation with organizations advocating "the unlawful damage, injury, or destruction of property."

The government had argued that in the limited context of deportation "the guarantees of the Bill of Rights are constitutionally irrelevant to the question of which non-citizens shall be permitted to remain within our borders."

On January 26, U.S. District Judge Stephen V. Wilson issued a written decision that cited a Supreme Court ruling (Kwong Hai Chew, which, in turn, cited a concurrence in Bridges v. Wixon) saying, "The Bill of Rights is a futile authority for the alien seeking admission for the first time to these shores. But once an alien lawfully enters and resides in this country, he becomes invested with the rights guaranteed by the Constitution to all people within our borders."

Judge Wilson ruled that "it is impossible to adopt for aliens a lower degree of First Amendment protection solely in the deportation setting without seriously affecting their First Amendment rights outside that setting."

Government Attempts to Stem Free Flow of Ideas, Judge Rules Judge Wilson said, "In this case, the government is trying to stifle certain ideas from entering our society from certain aliens through its immigration power." He said, "Our society, however, was built on the premise that only through the free flow of ideas can our nation grow and prosper."

Looking at the specific provisions of the INA being challenged, the court held that they violated the First Amendment because they were "substantially overbroad." Those provisions, Judge Wilson found, "proscribe almost exclusively activity protected by the First Amendment." He noted, "Simply writing, publishing, circulating, distributing, printing, displaying, and possessing material advocating or teaching the prohibited ideologies cannot be equated with advocacy of imminent unlawful action."

Judge Wilson ruled that INA sections 241(a)(6)(D), (F)(iii), (G)(v), and (H) violate the First Amendment. The first two of these sections, he said, "could as easily be applied to prohibit an alien from wearing a PFLP button, attending a PFLP lecture, distributing a PFLP newspaper, or teaching a PFLP viewpoint as they could be employed to prevent advocacy of imminent lawless action."

Ruling Called "Landmark Constitutional Decision" The editors of the immigration law weekly, Interpreter Releases, commented, "This is a landmark constitutional decision. If ultimately upheld, it would have far-reaching implications for the First Amendment rights of both nonimmigrant and immigrant aliens in the U.S. In view of the tenor of past Supreme Court decisions on the constitutionality of the Communist deportation provisions, it would be surprising if the Attorney General did not seek direct review of this decision by the Supreme Court."

The editors pointed out that the decision is "unfortunate" in that it applies only to aliens "lawfully residing in the United States," which would leave undocumented aliens in the lurch, and suggests that their omission might have been "a slip of the pen."

Marc Van der Hout, an attorney representing the Palestinians, said that an immigration judge suspended the deportation hearing for the two permanent residents on March 15 pending final outcome of the case, but denied the motion of continuance for the others. Van der Hout suggested that further litigation will challenge electronic surveillance of this group, including conversations between them and their attorneys.

The government is expected to appeal the decision, but has not yet formally indicated that it will do so. "I am hopeful that if this goes to the Supreme Court, or through legislative initiatives, that this ridiculous exclusion based on ideology will be dropped," Van der Hout said. "Excluding drug dealers or criminals is one thing, but this country is based on free speech and the free exchange of ideas. The judge's decision is 100 percent correct on the law."

Legislative Approaches During the life of this case, Congress has stepped in to extend First Amendment protection to aliens, but with mixed results. In 1987, the Foreign Relations Authorization Act was amended (section 901) to grant aliens the same First Amendment rights as U.S.

citizens. But section 901(b) made an exception for membership in the Palestine Liberation Organization PLO (of which the PFLP is a part). In 1988, section 901 was amended, limiting its protection to nonimmigrants.

In his oral opinion--when he was ruling only on rights of the two permanent resident aliens--Judge Wilson had ruled that section 901(b), which excepted PLO members from First Amendment rights, was unconstitutional. Later, however, in his written opinion, he expanded his ruling to both immigrants and nonimmigrants. Therefore, he dropped the ruling on the constitutionality of 901(b) because it deals only with nonimmigrants.

Rep. Barney Frank (D-Mass.) has reintroduced a bill, H.R. 1280, which amends the INA itself, striking these and other McCarren-Walter provisions. So far, 56 other House members have signed on as cosponsors of the bill.

Resources

CHILDREN OF THE STONES

"Children of the Stones" is the name given to young Palestinians who for more than a year have been battling Israeli security forces in the West Bank and Gaza Strip.

The American-Arab Anti-Discrimination Committee (ADC) has recently published an issue paper of the same name, comprised largely of affidavits and photographs telling the story of the Palestinian uprising--the Intifida--from the perspective of these youths.

The uprising, which began in December 1987, draws its strength from the shebab, young people, many of whom have been born and raised in refugee camps and who have lived their entire lives under Israeli occupation.

Although the accounts in "Children of the Stones" do not always distinguish between registered refugees and other Palestinians, many of the human rights abuses reported are directly linked to refugee camps. A detailed account is given of the strict curfew in the Jabalya Refugee Camp in Gaza from December 1987 through mid-January 1988. "Anyone caught on the street risked severe beating and arrest," said the report. "Researchers observed an elderly asthmatic woman attempting to reach the UNRWA clinic who was apprehended by a military patrol. The soldiers insulted the woman with profane language and struck her three times on her back with a wooden truncheon."

Rasha Houshiyyeh, a four-year-old from Ramallah, blinded by a rubber bullet.
Beverly Orr, Children of the Stones

Although stone and molotov cocktail throwing clearly can be life-threatening, Military Order No. 62 empowers the military authorities to arrest any resident of Gaza not only for these activities, but also for writing slogans on walls, singing nationalist songs, possessing nationalist literature, raising the Palestinian flag, making a "V-for-victory" sign with the hand, or wearing or otherwise displaying the colors of the Palestinian flag, according to the report. Many children, as young as nine and ten years old, are arrested in blanket sweeps, according to the report, and held in incommunicado detention for as long as 18 days. "Israeli military prison personnel beat children and youths imprisoned there with fists, sticks, wires, wooden truncheons which are sometimes modified with nails and metal strips, iron rods and other bludgeoning instruments," says the report.

The 49-page paper, including many affidavits and statements from those who were beaten or otherwise mistreated, is available for $3 from the ADC, 4201 Connecticut Ave., NW, Suite 500, Washington, DC 20008. (202) 244-2990.

ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATION BY STATE AND SOCIAL SERVICE ALLOCATIONS FOR FY 1989

STATES	3-YEAR POPULATION*	PROPOSED ALLOCATION	MAA INCENTIVE ALLOCATION
Alabama	493	$ 126,042	$ 5,963
Arizona	2,226	569,108	26,926
Arkansas	398	101,754	5,000
California	80,971	20,701,382	979,429
Colorado	1,896	484,739	22,934
Connecticut	2,190	559,904	26,490
Delaware	58	75,000	5,000
District of Columbia	562	143,683	6,798
Florida	5,581	1,426,862	67,508
Georgia	2,649	677,254	32,042
Hawaii	785	200,696	9,495
Idaho	508	129,877	6,145
Illinois	7,624	1,949,183	92,220
Indiana	498	127,321	6,024
Iowa	1,657	423,635	20,043
Kansas	1,553	397,046	18,785
Kentucky	759	194,049	9,181
Louisiana	1,871	478,348	22,632
Maine	550	140,615	6,653
Maryland	3,209	820,426	38,816
Massachusetts	9,211	2,354,923	111,417
Michigan	3,617	924,737	43,751
Minnesota	6,928	1,771,241	83,801
Mississippi	243	75,000	5,000
Missouri	1,878	480,137	22,716
Montana	141	75,000	5,000
Nebraska	497	127,065	6,012
Nevada	832	212,713	10,064
New Hampshire	250	75,000	5,000
New Jersey	3,289	840,879	39,784
New Mexico	297	75,932	5,000
New York	16,889	4,317,912	204,290
North Carolina	1,391	355,629	16,826
North Dakota	200	75,000	5,000
Ohio	2,145	548,409	25,946
Oklahoma	932	238,279	11,274
Oregon	2,368	605,413	28,643
Pennsylvania	5,370	1,372,916	64,956
Rhode Island	1,230	314,467	14,878
South Carolina	188	75,000	5,000
South Dakota	215	75,000	5,000
Tennessee	1,996	510,306	24,144
Texas	9,800	2,505,509	118,541
Utah	1,305	333,642	15,785
Vermont	283	75,000	5,000
Virginia	4,980	1,273,207	60,238
Washington	7,205	1,842,060	87,152
West Virginia	20	75,000	5,000
Wisconsin	4,274	1,092,709	51,698
Wyoming	11	75,000	5,000
TOTAL	204,023	52,500,000	2,500,000

*Estimate of refugee/entrant population who have resided in the United States 3 years or less.

NOTE The following are the proposed Targeted Assistance allocations by State for FY 89: California, $15,614,025; Colorado, $149,404; Florida, $13,444,827; Illinois, $257,603; Kansas, $184,158; Louisiana, $41,936; Massachusetts, 617,905; Minnesota, $709,566; Missouri, $23,856; New Jersey, $83,153; New York, $1,173,201; Texas, $187,266; Utah, $91,086; Washington, $1,074,014.

Source: Office of Refugee Resettlement.

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CONGRESS, ADMINISTRATION OFFER LEGISLATIVE RESPONSES TO SOVIET REFUGEE SURGE

As Soviet applications for refugee admission to the United States continue to set new records with each passing month, Congress and the Bush Administration have responded with a flurry of legislative proposals in a hurried search for some workable combination of numbers, funding, and admissions policies.

Nearly 10,000 Soviet citizens every month--predominantly Jews, Armenians, and Christian Pentecostals--are now applying for U.S. resettlement, creating growing backlogs and processing delays in Moscow and in Rome. Government and private refugee agency officials report that the current allocation for Soviet refugee admissions in FY 89 will be exhausted before the end of April, along with the federal funds available for their resettlement.

There seems to be general agreement among many members of Congress, Administration officials, and refugee advocacy groups that additional numbers and money are needed, and may be available within a few weeks. But the question generating the most debate and the least consensus is how many of the Soviet applicants are eligible for refugee status.

Meese Memo Signals Policy Shift on Soviet Processing

At the heart of the controversy on Soviet status is a policy change made last year by the U.S. government that was first confirmed in an August 4, 1988 letter from then-Attorney General Edwin Meese to Lt. General Colin Powell, National Security Council advisor. "Changes must be made in our Soviet refugee admissions program," Meese wrote. "Current practices...appear not to conform with the requirements" of the Refugee Act of 1980. Meese directed that the Immigration and Naturalization Service (INS) begin a transition, in conjunction with the Department of State, to "the proper statutory processing of Soviets."

The changes essentially involved ending the practice of according presumptive refugee status to all Soviet applicants, and instead, shifting to case-by-case determinations of a "well-founded fear of persecution," which is the norm for U.S. refugee admissions under the 1980 law. Until 1988, INS

IN THIS ISSUE:

This issue of Refugee Reports, in its entirety, focuses on the U.S. response to recent increases in the numbers of people seeking asylum or resettlement in the United States. Court Robinson examines Congressional and Administration responses to the recent surge of Soviet Jews, Armenians, and Pentecostals trying to emigrate..........1

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officials have said, approval of Soviet refugee applicants had been "virtually automatic."

The transition was completed by October, and in the first six months of FY 89, a total of 4,919 Soviets have been denied refugee status out of a total of 18,487 interviewed, according to a report from the General Accounting Office (GAO).

In Rome, where most Soviet Jews and Christian Pentecostals are interviewed--having left the Soviet Union with Israeli immigration visas--the overall denial rate for FY 89 is 15 percent, but has fluctuated widely. The GAO study of Soviet refugee processing reported a denial rate of 11 percent in January, 19 percent in February, and rising to 36 percent in March.

In Moscow, where most of the refugee applicants are Soviet Armenians, the denial rate has climbed from 45 percent in January to 71 percent in February and 85 percent in March. Overall, 61 percent of Moscow applicants have been denied refugee status in FY 89, according to the GAO report.

Morrison Calls a Hearing "The Administration's response to this unprecedented situation" of rapidly expanded Soviet emigration "has been hasty, ill-advised, and inartfully executed," wrote Rep. Bruce A. Morrison (D-Conn.), new chairman of the House Subcommittee on Immigration, Refugees, and International Law, in a letter to Attorney General Dick Thornburgh. "Such sudden shifts in policy raise disturbing questions regarding the integrity of our entire refugee (and asylum) process," Morrison said.

In an April 6 hearing called by Morrison, INS Commissioner Alan Nelson defended the changes, saying that, despite the rejections, "absolutely no Soviet seeking relief is forced to return to the USSR." Moreover, while Soviet processing has been brought in line with a "worldwide uniform standard for the adjudication of refugee claims," Nelson said, U.S. policy still preserves several "special considerations" for Soviet emigres, including:

1. Maximum Entry: Any Soviet denied admission as a refugee is allowed entry as a parolee, under the authority of the Attorney General.

2. "Priority 6" Processing: Current U.S. policy provides admission to all Soviet refugees, regardless of family, employment, or other links to the United States. "In virtually every other area of the world," Nelson said, "U.S. refugee processing is limited to Priority 1 through Priority 5, those with ties to the U.S. by family, education, or employment."

3. "Freedom of Choice": Despite the fact that they leave the Soviet Union with Israeli immigration visas and are offered immediate Israeli citizenship, Soviet Jews are allowed to opt for resettlement in the United States. "Elsewhere, and under normal procedures," said Nelson, "such 'offers of firm resettlement' are bars against further consideration for the U.S. refugee program." Fewer than 5 percent of Soviet Jews currently are proceeding to Israel.

In his testimony before the House Subcommittee, Ambassador Jonathan Moore, U.S. Coordinator for Refugee Affairs, acknowledged that parole status was "inadequate", in that it provided no statutory mechanism for adjustment to permanent resident status and citizenship. On April 5, the Administration sent proposed legislation to Congress to establish a new category of "special immigrant," which Moore said would give the United States "the flexibility to admit for permanent resettlement persons of humanitarian and foreign policy concern who do not qualify under current immigrant or refugee provisions."

The proposed legislation establishes a five-year period during which up to 30,000 special immigrant visas each year could be allocated to groups designated by the President following "appropriate consultation" with Congress. These special visa numbers would not count against normal immigration quotas.

"Persons admitted under this category would be placed on a track for consideration for U.S. citizenship," said Thornburgh when he announced the draft legislation. Moreover, he said, "refugee applicants denied refugee status, but admitted to the United States under parole status between August 15, 1988 and September 30, 1989, also would be eligible for consideration

ADMINISTRATION PROPOSALS TO RESPOND TO INCREASED SOVIET EMIGRATION IN FY 89

NUMBERS

In the context of emergency consultations with Congress, the Administration has proposed to add 28,500 fully-funded new numbers to the worldwide admissions ceiling in FY 89, with the following new regional ceilings:

East Asia	Proposed Ceilings	Current Ceilings	Increase
First Asylum	28,000	27,000	1,000
Orderly Departure Program	22,000	19,500	2,500
Subtotal	50,000	46,500	3,500
Eastern Europe/Soviet Union			
Soviet Union ex Rome	35,200	14,000	21,200
Soviet Union ex Moscow	8,300	5,000	3,300
Eastern Europeans	6,500	6,500	0
Subtotal	50,000	25,500	24,500
Near East/South Asia	7,000	6,500	500
Latin America/Caribbean	3,500	3,500	0
Africa	2,000	2,000	0
TOTAL	112,500	84,000	28,500

FUNDING

The Administration has submitted a request for supplemental appropriations, calling for $85 million to cover State Department admissions costs for 28,500 people in FY 89. This includes the 22,500 proposed new numbers as well as 6,000 admissions slots that previously had been "semi-funded."

The Administration has requested an additional $15 million for "critical refugee assistance needs in Africa and Southeast Asia."

The Administration is not requesting supplemental funds to cover domestic resettlement costs. Rather, it has proposed taking $21.9 million from the line item for cash/medical assistance and state administrative costs in the Office of Refugee Resettlement budget and transferring that amount to the voluntary agency matching grant program. Such a move would reduce the period of federal reimbursement to states for refugee cash and medical assistance from 24 months to about 18 months.

STATUS

The Administration has offered legislation to create a new "special immigrant" category that would permit the U.S. government, following consultations with Congress, to admit up to 30,000 additional people each year for "humanitarian, foreign policy reasons." In the meantime, the Administration will continue to offer public interest parole to all Soviet applicants in Rome and Moscow who are rejected for admission as refugees.

for U.S. citizenship."

Armenians Accept Non-Refugee Status for Some, Jews and Pentecostals Call for Presumptive Eligibility Ross Vartian, executive director of the Armenian Assembly of America, supported the idea of a new "special immigrant" category for Soviet Armenians, saying that "it seems to be an appropriate course of action." He specifically endorsed the retroactive adjustment of status for parolees already in the United States, calling parole "problematic at best."

As of March 31, only 460 of the 2,846 people denied refugee status in Moscow had accepted an offer of parole, the GAO report said.

U.S. representatives for Soviet Jews and Pentecostals, on the other hand, insist that refugee status should be available to those two groups on a presumptive basis. "The denials represent a policy change that is unsupported by the Refugee Act," said Rabbi Ben Zion Leuchter, president of the Hebrew Immigrant Aid Society (HIAS), "and unwarranted by the facts of Jewish experience in the Soviet Union and the claims of Soviet Jews to a well-founded fear of persecution."

"Evidence of persecution against Pentecostals and other religious minorities in the Soviet Union is voluminous and compelling," said Dr. John H. White, president of the National Association of Evangelicals, "and as such, supports a presumption that they have a well-founded fear of persecution."

Christian and Jewish agencies in the United States--including HIAS, the American Jewish Committee, the Council of Jewish Federations, World Relief, the U.S. Catholic Conference/Migration and Refugee Service, and the Lutheran Immigration and Refugee Service (LIRS)--have urged INS to return to the practice of presuming that Soviet Jewish and Pentecostal applicants are refugees unless the INS uncovers evidence that clearly shows otherwise.

These groups have supported legislation introduced by Morrison (H.R. 2022) that would designate Jews and Evangelical Christians in the Soviet Union as "categories of aliens targeted for persecution." The bill further states that all aliens who belong to the categories established shall be considered "as subject to persecution without the need to provide independent or additional evidence." (See chart on page 3.)

The Morrison bill provides that any categories established under the act would apply through September 30, 1990. Sen. Frank R. Lautenberg (D-N.J.) is expected to offer a similar bill in the Senate, but with a sunset date of September 30, 1991.

Nelson called the bill "unsound" and "somewhat short-sighted." He said he believes that "it would be unwise to create a separate refugee program for any nationality or for subgroups within a nationality" and "would be a contradiction of the letter and spirit of the Refugee Act of 1980."

Similarly, Moore said, "We do not favor legislation that would establish a presumption or confer automatic refugee eligibility on a particular group or groups of Soviet applicants."

The private groups supporting the Morrison bill, and even Morrison himself, have said that legislating refugee status for specific groups is not the preferred course of action.

"I hope this legislation will be rendered unnecessary," Morrison said. "Attorney General Thornburgh can solve the problem with the stroke of a pen. But if the Administration is unwilling to move, this legislation will do it for them."

"Clearly there are people trapped in a process that is not of their making," said Roger Winter, director of the U.S. Committee for Refugees, "and that ought to be resolved in a sensitive and humane way. But I do not believe that a reversion to nationality-specific language in the law itself is a desirable course to pursue."

Such a move would "Balkanize the Refugee Act of 1980," he said, and create a situation in which "resources and admissions numbers will tend to be channelled to those with a politicized constituency in this country."

"If status is to be legislated," Winter said, "Congress should give consideration to several other less visible, perhaps even more vulnerable groups." He named Jews and Bahai's in Iran, Iraqi Kurds, Cambodian civilians under Khmer Rouge control, black South Africans not affiliated with liberation movements, and victims of torture and political prisoners throughout the world.

Morrison, Lautenberg Also Focus on ODP

CONGRESSIONAL PROPOSALS TO RESPOND TO INCREASED SOVIET EMIGRATION IN FY 89

Rep. Bruce A. MORRISON (D-Conn.): H.R. 2022

- Requires the Attorney General, in consultation with the Secretary of State and U.S. Coordinator for Refugee Affairs, to identify and establish (1) categories of aliens who are or were targets of persecution in the Soviet Union, and (2) categories of aliens who are or were targets of persecution in Indochina.
- Specifies that all aliens who belong to the categories so established shall be considered subject to persecution without the need to provide independent or additional evidence.
- Declares that, with respect to the Soviet Union, Jews and Evangelical Christians shall be deemed two categories of aliens targeted for persecution.
- Allows an alien who falls within categories established by this act, or by the Attorney General pursuant to this act, to reapply for refugee status if such alien was denied refugee status between August 15, 1988 and the date of enactment.
- Categories established by this act will apply from the date of enactment through September 30, 1990.
- Allows aliens who were nationals of the Soviet Union, Vietnam, Laos or Cambodia who were paroled into the United States after being found ineligible for refugee status to adjust their starus to that of a refugee.
- Specifies that the number of such adjustments shall not be deducted from any refugee ceiling.

Sen. Frank R. LAUTENBERG (D-N.J.):

- This bill, which has not yet been introduced, will be similar to H.R. 2022, except that it requires categories to be maintained through September 30, 1991.

Rep. Howard L. BERMAN (D-Calif.): H.R. 1605

- Authorizes the admission of an additional 28,000 refugees in FY 89 with the following regional allocations: 19,000 for refugees from the Soviet Union, 5,500 for the Orderly Departure Program from Vietnam, 2,000 for Eastern Europe and the Soviet Union, 1,000 for East Asia, First Asylum, and 500 for the Near East.
- Transfers $50 million from SLIAG (State Legalization Impact Assistance Grants) to the Office of Refugee Resettlement, of which $25 million shall be used for the voluntary agency matching grants program and $25 million shall be used for state-administered refugee resettlement programs.
- Transfers $50 million in SLIAG funds to the Department of State for the Emergency Refugee and Migration Assistance Fund to cover admissions and placement costs.
- Restores the money "borrowed" from SLIAG by amending the Immigration Reform and Control Act of 1986 to appropriate an additional $100 million in FY 91.
- Appropriates $10 million for each of fiscal years 1990 and 1990 to fund activities directed against employer sanctions-related discrimination, and expands the use of SLIAG funds to include employment training, public education and outreach.

Sen. Edward M. KENNEDY (D-Mass.) and Sen. Robert W. KASTEN, Jr. (R-Wis.): S. 489

- Transfers $50 million in SLIAG funds to ORR to cover domestic resettlement costs for 25,000 additional Soviet Jews and other refugees admitted in FY 89.
- Transfers $150 million in SLIAG funds to the Department of State for the Emergency Refugee and Migration Assistance Fund. Although the bill is not specific, it is expected that $100 million would cover admissions and placement costs, and the remainder would be made available for emergency relief and assistance to refugees overseas.

Rep. Robert K. DORNAN (R-Calif.): H.R. 852

- Requires that 6,500 refugee admissions numbers be added to the FY 89 ceiling, with 5,000 numbers allocated to the Orderly Departure Program, 1,000 to East Asia, First Asylum, and 500 to the Near East/South Asia.

Vietnamese The final version of H.R. 2022 also includes a provision for the designation of "categories of aliens who are or were targets of persecution in Indochina," which was not included in earlier drafts. Although no mention is made of specific groups in the Morrison bill, a Lautenberg press release identified "those registered with the U.S. Orderly Departure Program in Vietnam" as members of a group for whom persecution should be presumed.

In his testimony, Nelson noted that in February INS began to adjudicate ODP refugee applications in Vietnam according to the same worldwide standard that had been applied in Rome in October 1988 and in Moscow in January 1989. As with Soviet applicants, Vietnamese who were rejected for admission as refugees have been offered parole.

In February, INS refugee denial rates jumped to 76 percent, compared to only 6 percent the month before. The rejection rate reached 80 percent in March.

Since the U.S. ODP program began in 1979, more than 80,000 Vietnamese have migrated legally and directly to the United States. According to U.S. program regulations, applicants who qualify for immigrant visas are required to depart as immigrants, and more than 20,000 have done so in the last decade.

The ODP refugee track, historically, has been reserved for people who fall into one of three categories. Category One is for family reunification cases who are not currently eligible for immigration visas. Category Two is for former employees of the U.S. government, U.S. foundations, voluntary agencies, or business firms. Category Three includes political prisoners, Amerasians, former civil servants and military officials of the government of South Vietnam, and persons educated in the United States.

Previously, individuals who could meet the objective criteria for a particular category were presumed to have a well-founded fear of persecution and approved for admission as a refugee. Since February, an INS official has confirmed, Category Two and Category Three cases continue to be approved for refugee status, but Category One cases generally are now offered parole instead.

In February, INS officials interviewed 1,990 applicants for family reunification, of whom 1,241 were approved for entry as immigrants. The remaining 749 Category One cases were interviewed for refugee status, of whom 198 were approved and 551 denied.

"Persons applying in the Orderly Departure Program have waited years for a chance to leave Vietnam," LIRS Washington representative John Fredricksson said. "Many have applied to leave based on an implicit, if not explicit, invitation by the U.S. Embassy in Bangkok in the form of a Letter of Introduction (LOI). These persons, when rejected, will be forced to stay in Vietnam or... to leave by the laborious and delaying process of humanitarian parole."

Administration Seeks $100 Million Supplemental On March 24, President Bush submitted a request to Congress for FY 89 supplemental appropriations, which includes $85 million for refugee admissions and resettlement and $15 million for new refugee assistance needs in Africa and Southeast Asia.

The supplemental would permit the Department of State to add 24,500 fully-funded admissions numbers to the Eastern Europe/Soviet Union region (see chart on page 5). In addition, the government would be able to restore 3,500 numbers to the Southeast Asian program and 500 Near East/South Asian numbers that were removed last December to accommodate increased Soviet flows.

Of the $15 million in refugee assistance, $11.5 million will go to the UN High Commissioner for Refugees and the International Committee of the Red Cross to serve refugees in Africa, where the total refugee population has increased by at least 800,000 people in the last year. The remaining $3.5 million will cover additional care and maintenance costs for Vietnamese in Hong Kong, as well as education and security programs for displaced Cambodians on the Thai-Cambodian border.

Morrison said that the supplemental would be considered on the floor of the House some time during the last week of April. He would not predict any dates for a Senate vote, but said, "I anticipate that we will have the new numbers by May."

Morrison took issue with the Administration's decision not to seek supplemental funding for the Office of Refugee Resettlement. Instead, it is contemplating a reprogramming of funds within the existing appropriation for Refugee and Entrant Assistance.

According to Catherine Bertini, acting assistant secretary for Family Support in the Department of Health and Human Services, the reprogramming will move $21.9 million from the budget line item for federally-subsidized, state-administered cash and medical assistance programs and state administrative costs. The money will be shifted to the voluntary agency matching grant program.

Such a reprogramming of funds, Bertini estimated, would reduce the period of federal reimbursement to states for refugee cash and medical assistance costs from 24 months to about 18 months.

"I feel strongly that this shifting of additional burden to the states is the wrong way to go," Morrison wrote in a letter to HHS Secretary Louis Sullivan. "I hope that the Department will reconsider this ill-advised proposal and, in any case, take no interim steps to implement it until the Congress has had an opportunity to assess the budgetary impact of the revised refugee ceilings."

Recent Developments

INS DRAFTS LEGISLATION TO BLOCK ASYLUM SEEKERS AT PORTS OF ENTRY

The Immigration and Naturalization Service has drafted a bill that, if enacted, would enable immigration officers to exclude asylum seekers from entering the country based on a series of "credibility" considerations. An asylum seeker would first have to satisfy an immigration officer that he or she did not have access to a refugee camp or other safe haven between the country of origin and the United States, or that U.S. diplomatic posts were unavailable overseas to file an application for refugee resettlement to the United States.

The measure, the "Asylum Anti-Abuse Act of 1989," was written at the request of the Attorney General and is now under review in the Department of Justice.

Under the draft legislation, those who would pass the credibility hurdle would also need to be legally present in the United States in order to be granted an asylum hearing with an immigration officer. Undocumented aliens would only be able to apply for asylum in the course of deportation or exclusion proceedings before immigration judges in the Executive Office of Immigration Review (EOIR), a separate agency within the Justice Department.

In order to apply for asylum, however, such undocumented aliens would be required to file a notice of intent to apply within 14 days of being served notice of the deportation or exclusion proceedings.

For those found both credible and legally present, an "informal, nonadversarial hearing" would be held with an immigration officer. According to the draft bill, the immigration officer's determination "shall be final and shall not be subject to further administrative appeal or review."

Asylum seekers would be permitted to have legal counsel "at no expense and no delay to the government" with the proviso that "Counsel may advise the alien during the interview but shall not otherwise participate."

INS Bill Would Replace "Well-Founded Fear" Standard for Asylum with Harsher "Clear Probability" Standard The draft bill would also amend the Refugee Act by eliminating the "well-founded fear of persecution" as the standard for determining asylum, and, in its place, put the burden of proof on the asylum seeker to establish a "clear probability" that deportation to a country would result in the alien's life or freedom being threatened.

The "well-founded fear of persecution" standard was affirmed by the U.S. Supreme Court in its landmark *Cardoza-Fonseca* decision of March 1987. Writing for the majority, Associate Justice John Paul Stevens rejected the "clear probability" standard for asylum, saying, "There is simply no room in the United Nations' definition for concluding that because an applicant only has a 10 percent chance of being shot, tortured, or otherwise persecuted, that he or she has no 'well-founded fear' of the event happening."

Critics Call Proposal "Beyond the Pale" Arthur Helton, director of the Political Asylum Project of the Lawyers Committee for Human Rights, told *Refugee Reports*, "This measure is so beyond the pale, it undercuts so totally the humanitarian standards of asylum, that it doesn't deserve to be on the table of discussion."

Helton said that the draft bill would violate due process and "eviscerate refugee protection in the United States." He charged that "unreviewable, brief border encounters could result in the rejection on any number of grounds not related to the merits" of the asylum claim.

Roger Winter, director of the U.S. Committee for Refugees, also criticized the proposed credibility criteria for excluding asylum seekers from having their claims heard. "Some of the most compelling asylum claimants coming to our country--especially those from Central American and Haiti--have never been given a real opportunity to apply for refugee resettlement from outside our borders."

Winter said, "To require them to do so now in the absence of any record of good faith efforts by the United States to consider their refugee claims in the past amounts to a hypocritical shirking of responsibility on the part of our government to protect refugees in our own part of the world."

Henry Curry, director of the Asylum Policy and Review Unit in the Justice Department, told Refugee Reports that the draft legislation is "still an internal document" in the Justice Department. He said that his unit "had extensive comments" on it.

HAITIAN INTERDICTIONS HIT RECORD HIGH, INS FACILITY AT KROME SWELLS WITH HAITIANS

At a time when Haiti has been experiencing a sharp escalation in violence and political unrest, the largest monthly totals ever are being recorded in the number of Haitians being interdicted by the U.S. Coast Guard.

In March, 1,535 Haitians in 17 vessels were interdicted and returned to Haiti, the largest monthly total in the eight-year history of the interdiction program.

As of April 20, the number of Haitians interdicted so far in 1989 is 2,373. An Immigration and Naturalization Service (INS) spokesman attributed the sharp increase to "false rumors" in Haiti "that the Bush administration would allow everyone to stay here who arrived within a 90-day period." The INS spokesman said, "Obviously, someone confused the issues when there was so much publicity about the Nicaraguans."

The same INS spokesman said that the situation is different now with the abortive coup attempts in Haiti. He said that a couple of planes have recently been hijacked by soldiers and that "hundreds of military personnel with weapons are missing." He indicated that the Coast Guard and the INS are now on particular alert for armed Haitian soldiers attempting to flee to the United States.

Although the increase in Haitians attempting to flee their homeland this spring has been especially sharp, there has also been a steady annual increase in Haitians interdicted since the program began in 1981. The total interdicted in 1988, 4,712, represents a 33 percent increase over the 1987 number of 3,541.

Virtually all interdicted Haitians are returned directly to Haiti following brief immigration hearings aboard the Coast Guard vessels. Since 1981, only 6 Haitians out of a total of the 20,421 interdicted have been brought to U.S. shores to pursue their asylum claims.

Those who evade the Coast Guard and reach U.S. territory, or who arrive by air, have a better chance of applying for asylum, but still only a remote chance of actually being granted asylum. Of the 1,749 cases that have been decided by INS district directors from June 1983 through September 1988, only 2 percent have been approved. Nevertheless, larger numbers than usual have managed recently either to elude the Coast Guard and reach the Florida shores or enter the United States by air.

Apprehensions of undocumented Haitians arriving at Miami International Airport have been increasing at a fast pace. From a total of 345 in FY 87 attempting to enter the United States, and 38 caught transiting through Miami without visas, apprehensions rose to 614 in FY 88, and 83 transiting without visas. Thus far, halfway through FY 89, Haitian apprehensions at Miami International have risen to 843, and 123 transiting without visas.

Krome Detention Center Overcrowded with New Arrivals from Haiti--Refugee Reports on the Scene On April 10, a 55-foot wooden boat was stopped by the Coast Guard about 100

Haitians whose boat was intercepted just 100 yards off the coast of Miami on April 10, 1989, are seen above at the Krome North detention center as they are taken from the health unit to the administration building for further processing. Newly arrived detainees are issued regulation uniforms (fluorescent orange in color), informed about the facility's rules and regulations, and given medical examinations as part of their processing. *Photo credit: USCR/Hiram A. Ruiz*

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yards from the Miami shore. Clearly within U.S. territorial waters, the Haitians were brought ashore and taken to the Krome North Service Processing Center, an Immigration and Naturalization Service (INS) detention center located on the edge of the Florida Everglades.

As a result, the number of persons detained at Krome, 748 on April 11, exceeded the 525-person capacity of the facility by 223 persons. About 550 of the detainees were Haitians.

Further complicating the Krome situation was a major fire in the Everglades, coming within a mile of the facility, that cast a smoky pall over the entire city of Miami.

Refugee Reports arrived on the scene as the INS staff was preparing to evacuate the facility. The visit, scheduled in advance, went forward despite the unusual circumstances of the day. Through the smoke, Refugee Reports toured Krome, seeing some of the new arrivals. They had been changed into the bright orange jumpsuits common to INS detention facilities and could be observed in various stages of processing. Some were still undergoing medical screening. Others could be seen sleeping on pallets set up to accommodate the overflow.

The guard accompanying Refugee Reports did not speak Creole. In fact, the director of the facility said that only about 5 percent of the personnel there speak Creole.

No English-speaking Haitians were encountered. One Haitian approached Refugee Reports speaking in Creole. The only words that could be clearly understood were "Liberte, Liberte."

April 11 was an unusual day in Krome's history. Within several hours of the Refugee Reports visit, the facility was empty, and the detainees bused to Bobby Maduro stadium in Miami, the very place the City had used as a temporary shelter for Nicaraguan asylum seekers in January. It would be reasonable to infer that recreational activities were curtailed in preparation for the evacuation, and that detainees were being confined more closely than usual.

Although the level of activity in the administrative offices and outside the facility seemed to be heightened as a result of the preparations for evacuation, the detainees appeared unaware of any unusual activity. Lunch was being prepared by detainees at a relaxed pace, medical screening seemed to be proceeding normally, and the general atmosphere felt routine.

During the Refugee Reports visit, most of the detainees were to be found sitting on their cots doing nothing. There was no activity in the recreational yards. None of the detainees in the barracks were seen to have any educational or recreational materials, except for one group of men who appeared to be playing a card game, and a group of women who were watching the television in their barracks. Ping pong tables and exercise equipment stood empty. A bank of telephones in the men's barracks was blocked off by a chain-link fence, which was padlocked. Times for telephone use were posted on the locked door of the fence. At the time of the visit, shortly after 11:00 a.m., the schedule indicated that the phones should have been available. However, they were locked and inaccessible to the detainees.

Krome Center Administrator Constance K. Weiss told Refugee Reports that detainees usually spend most of the day in the recreation yard, and that Krome features classes and recreational programs. She said that Krome detains neither family groups nor minors, and that all of the detainees are administrative, rather than criminal, cases.

She said that Haitians generally comprise about half of the total population, the remainder made up mostly of South and Central Americans. She said that the average length of stay is 3-to-4 weeks, with the quickest turn-around being one week and the longest length of stay being 8 months. An average of 450 detainees are housed at Krome at any one time.

Treatment of Haitians Angers Blacks, Haitians in Florida "What angers people here," said Gerard Jean-Juste, director of the Haitian Refugee Center, "is the flagrantly racist treatment of Haitians." As an example, he cited the interdiction on January 30 of a boat caught 7 miles offshore. Its 149 passengers, including children and pregnant women, were ordered back to Haiti at a time when the city of Miami government "was lobbying to get hundreds of Nicaraguans here," according to Jean-Juste.

Dade County Commissioner Barbara M. Carey, co-chair of the Immigration Advisory Committee for Dade County, told Refugee Reports, "The black and Haitian communities see the treatment of Haitians as totally unfair and unjust." Carey, one of Miami's leading black politicians, said, "There are very strained relations between ethnic communities right now. We feel that our government hasn't dealt fairly with black Americans or people from black countries."

Carey said that the immigration law needs to be applied fairly and equitably to all groups. "Don't make artificial distinctions," she said.

INS Denies Policies are Racially Motivated Perry Rivkind, INS district director in Miami, countering claims that INS policy discriminates against blacks, told Refugee Reports, "About 40 percent of the Mariel Cubans were black." He said that interdicted Cubans are brought ashore and released from detention "because it is a national policy." He pointed out that Cubans cannot be deported because there is no agreement with Castro to take them back.

Carey said that in the case of the Haitians, "the United States made an agreement with a dictator to interdict and return them." She said, "They're violating the Haitians' civil rights. The United States should unilaterally break that treaty."

Legislation Proposed to Bring Interdicted Haitians to U.S. Territory On February 2, Rep. Claude Pepper (D-Fla.) introduced a bill (H.R. 1164) that would grant aliens captured at sea while attempting to enter the United States the same procedural asylum rights accorded those who enter the United States by land.

Pepper announced that he was introducing the bill "to correct this disparity in the treatment of immigrants." He said, "All persons would have the opportunity on the land...to make their claims for immunity on the ground that they could not safely return to their homeland."

The Pepper bill would require the Coast Guard to transport any aliens it apprehends to an appropriate port of entry for an interview by an immigration officer to determine their right to enter the United States. Pepper said that the current procedure has given rise to the suspicion that would-be immigrants coming in by ship, who are mostly black, are discriminated against.

Where Does U.S. Territory End? Under U.S. immigration laws, an alien's rights improve dramatically if he is apprehended within the United States, as opposed to a border, or, even worse, in international waters. On March 24, a sailboat carrying 101 Haitians was stopped by the Coast Guard 3.18 miles offshore, a mere 365 yards outside the three-mile limit. A patrol boat reportedly towed the 50-foot sailboat in circles for more than two hours while a Coast Guard helicopter used radar and radio transmissions to determine the exact location. Coast Guard Lt. Jeff Karonis told The Miami Herald, "Had the Haitians made it to within three miles, they would have technically entered the United States and would have been brought in to shore and turned over to the Immigration and Naturalization Service." As it turned out, the Herald reported, "After a series of one-to-five-minute immigration hearings, the 99 people left aboard the sailboat were ruled 'economic refugees'--not eligible for political asylum--and were transferred to the Coast Guard cutter Escape for the return trip to the Haitian capital." Two of the Haitians, suffering from severe dehydration, were taken to Memorial Hospital in Hollywood, Florida, the Herald reported.

At the time, the Haitian Refugee Center questioned the accuracy of the determina-

Krome North was already near capacity before the April 10 detention of 261 Haitians. Refugee Reports staff writers, on a site visit to the Krome facility April 11, saw the temporary dormitory (pictured above) which was set up to accommodate the new arrivals.

Although the majority of detainees at any given point in time are Haitian, only 5 percent of the staff at the Krome facility speak Creole, the Haitians' language.

Photo credit: USCR/Hiram A. Ruiz

tion of distance from shore, and argued that "given the boat's close proximity to shore, those on board should be given the opportunity to land."

The issue has become further inflamed, however, by the question of where U.S. territorial waters, in fact, end. A Presidential Proclamation on December 27 extended U.S. territorial waters from 3 to 12 miles, a fact which the Haitian Refugee Center has been trying to apply to the interdiction procedures.

An INS spokesman said that the proclamation has no impact on immigration law. He said that INA 287(a)(3) gives authority to continue interdicting those outside the 3-mile limit. However, that section of the immigration statute only gives immigration authorities the authorization to board "any vessel within the territorial waters of the United States" to search for aliens; it does not specify what those territorial waters are.

HAITIAN EXCLUSION HEARINGS AT KROME

The following is an extract taken from a transcript of exclusion proceedings on October 18 before an Immigration Judge at the Krome facility:

After opening the proceedings, the Judge asks the respondent if she was able to find a lawyer. She says, "No, Your Honor, I don't have an attorney. God is my lawyer." The first series of questions focuses on the passport in another person's name which she used to enter the United States. *We pick up the verbatim transcript at this point.*

Immigration Judge (IJ): Have you ever had any good immigrant visa in your own name?
Respondent (R): No, first time.
IJ: What is the problem you had down there?
R: The problem started on [DATE], my husband and I we were inside of our house when I heard knocking on the door. When we opened the door it was three men behind the door they had mafia glasses and wearing uniform, wearing green uniform.
IJ: What do you think would happen if you had to go back to Haiti now?
R: God only knows.
IJ: Well what did these men want, they want to just talk to you or what did they want?
R: All I could tell you they wanted to get money from us, when they asked us for money we said that we were poor people we didn't have any money, they took my husband away I was pregnant, three months pregnant at that time.
IJ: Well ma'am if you didn't have any money to give them how did you get the money to pay for this, this fake passport?
R: Judge, Judge that happened after. I was pregnant three months pregnant when I was crying asking them to leave my husband alone some of, one of them, kicked me in the belly and I lost the kid.
IJ: But you didn't answer my question, you say that you were too poor to pay these men off but you managed to pay for, for this passport, right?
R: The way that I raised that money I borrowed it here, I asked accounts on other places, make a little sale here that's the way I raised that money.
IJ: Why did you feel you had to leave Haiti?
R: Because of that my mother was suffering of hypertension, hypertension and she died.
IJ: But still why, if your mother died why did you have to leave Haiti?
R: When like I told you I was kicked in the belly and I lost the girl unfortunately but I spent time in the hospital but meantime people were looking for the whereabout of my husband up to now I don't know what happened to him because I never had any news from him from the day they take him, took him away from the house and my mother was living with us at that time she died following that incident in July.
IJ: But I still, I still don't understand even with all that why did you feel you had to leave your country?
R: I was upset because from the time that they took my husband away I went to Forde Marsh [sic--Fort Dimarche], I went to the general hospital, I went all over I couldn't get my husband, know his whereabouts so I was upset.
JUDGE TO INS TRIAL ATTORNEY: Well, this could go on all day, I find that she hasn't established a claim to political asylum or 243 (h) relief. I'm entering an order of exclusion and deportation. She has made no allusions whatsoever to any possible problem which might give rise to

applications under Sections 208 or 243 (h).

JUDGE TO RESPONDENT: Ma'am I cannot let you into the United States using someone else's passport. I'm going to have to enter an order that you be returned back to your own country. The reasons that you have given me do not give me the right or the power to overlook your bad documents.
R: I gave you the reason if you want I could show you the marks on my belly where I was kicked.
IJ: I keep asking you why you had to leave your country and all you talk about is things that happened to you there but you don't relate those things to the need to leave.
R: Like I told you, Your Honor, my husband was arrested.
IJ: Right, and so your husband cannot provide for you anymore and you have to come here in order to earn a living, is that correct?
R: Too much for me I don't have any help, God is only my help.
IJ: Well, what do you think you're going to do here in the United States that you didn't do down there?
R: Your Honor, as long as I could work here.
IJ: Okay, I, I, I understand that ma'am and, and I, you know I sympathize with you, but the reasons that you have given under our law does not allow me to let you stay here. Now you have a right to appeal my decision to a higher court if you wish to do so. If you would like to appeal I'll give you the forms and tell you how to go about filling those out to file your appeal, you could also tell me now however, that you don't wish to appeal, if you do that you accept my decision as final and arrangements will be made immediately for your return to Haiti.
R: What about the paper you told me about?
IJ: Okay, you want to file the appeal form. Here are the papers, you will have until October 28 to fill them out and return them to the Immigration Court. Now if you don't get those in on time my decision then becomes final and the Immigration Service will send you back. If you file your papers on time and put down reasons there why you think my decision is wrong you'll be continued to be held here at Krome and a higher court will review this. It will take about four months. The other..the other..the other..
R: Is it in English?
IJ: You will not have to be there personally. All they will do is review the tape that we're making here and will decide whether or not based on what happened here whether my decision was right.
INTERPRETER TO JUDGE: She had a question, Your Honor, if that is in English those documents that we filled out?
IJ: Oh, she should get somebody here at Krome that speaks Creole to help her fill them out, or she can continue her efforts to get a lawyer.
JUDGE TO INS TRIAL ATTORNEY: The Service waives appeal?
ATTORNEY: Yes, Your Honor.
IJ: This case is concluded, appeal is reserved to October 28.

INS DEPORTS GUATEMALAN AGAINST JUDGE'S ORDER

On April 6, 1989, INS officials in south Texas deported Efrain Martinez Cabrera, a Guatemalan who had been ordered released by visiting Immigration Judge Charles Auslander, of the Executive Office for Immigration Review (EOIR).

The incident began on April 5, when Cabrera was brought before Judge Auslander in a courtroom adjacent to the Immigration and Naturalization Service (INS) Service Processing Center at Port Isabel. The court did not have a case file on Mr. Cabrera, and INS could not produce one. Auslander therefore ordered Cabrera released. After the INS indicated that they would appeal the ruling, Auslander directed Cabrera to meet with a representative of Projecto Libertad--an agency that offers legal help to Central Americans--who was present in the court.

According to the Projecto Libertad representative, Robert Koulish, Auslander asked him to "meet with Cabrera and to explain to him what his rights were and what forms of relief were now available to him." Koulish had barely taken Cabrera's name and particulars, when INS District Council Mike Ochoa "walked over to me and asked if I was a lawyer and if I had a G-28 present with me." When Koulish replied that he was not a lawyer and did not have the form, Ochoa "took Mr. Cabrera and physically moved him to the back of the courtroom and had him re-detained."

"At that point," adds Koulish, "I asked Judge Auslander if Mr. Ochoa could do that, and he said 'No'. The judge then ordered Mr. Ochoa to return Mr. Cabrera to where I was standing, and Mr. Ochoa refused to comply with the order."

Auslander told the Valley Morning Star that, later that day, after he was informed that Projecto Libertad attorney Mark Schneider had agreed to represent Cabrera, he "reopened the case and vacated the order of deportation."

"As of 3 p.m. Wednesday [April 5]," Auslander added, "the deportation order no longer existed." Auslander cancelled all further hearings scheduled for that day and reported what happened to EOIR's Chief Immigration Judge in Washington, Judge William Robie.

Projecto Libertad lawyers Schneider and Jacqueline Schoonheim made numerous phone calls to INS trying to get information on Cabrera's whereabouts, but, according to Koulish, "the INS would not respond to any of the inquiries."

Late that day, Ochoa telephoned Schneider and informed him that Cabrera would be deported at 5:00 a.m. the following morning, despite the fact that INS regulations state that lawyers should be given 24-hours notice when their clients are to be deported.

According to Virginia Kice, INS public affairs specialist in Harlingen, Cabrera's appearance before Auslander on April 5 had been due to a clerical error. Kice says that Cabrera had in fact previously appeared before Auslander, who had made an order for deportation. Based on that previous order, INS proceeded to arrange Cabrera's deportation to Guatemala, which took place on the afternoon of Thursday, April 6, 1989. "We contend that Mr. Cabrera was legally deported," says Kice.

EOIR has not taken any action on the incident. According to Gerald S. Hurwitz, counsel to the EOIR director, "Judge Robie's office was made aware of the situation." However, Hurwutz said that "there was no formal complaint lodged."

Kice says that INS has filed an appeal of Judge Auslander's motion to reopen the case and has asked that the appeal be expedited.

Update

° From April 17 to 27, an estimated 4,000 Cambodians who have been living in Khao I Dang in an illegal status will be moved by Thai authorities to Ban Thad, adjacent to Site 2 on the Thai-Cambodian border, according to Jim Anderson, director of the Thailand program for the International Rescue Committee.

° On March 31, the Thai government closed a repatriation center in Tak Province for Burmese refugees who had fled across the border to escape persecution at the hands of Burma's military government, according to Thai press accounts. Starting on April 1, any remaining Burmese students in Thailand would be considered illegal immigrants and subject to Thai immigration laws.

Thailand established the Tak center last December to facilitate repatriation of Burmese and, according to Thai officials, a total of 387 were returned voluntarily to Burma. Several groups, including Amnesty International and the Student Federation of Thailand (SFT), have reported that some of the Burmese were sent back against their will and subsequently arrested by Burmese authorities.

At an April 2 press conference, SFT executive committee member Porameth Phuti urged the Thai government to allow Burmese students to be granted asylum in Thailand until general elections are held--as the Saw Maung regime has promised--in May 1990.

Thai officials estimate that there are about 200 Burmese taking refuge inside Thailand and about 3,000 more along the border in areas controlled by ethnic minorities engaged in their own conflict with the Burmese government. Private sources report somewhat higher figures for both groups.

° A federal appeals court upheld the convictions of eight people in the Tucson sanctuary trial on charges of conspiracy and harboring and transporting undocumented aliens. In a 3-to-0 decision, the U.S. Court of Appeals for the Ninth Circuit ruled on March 30 that the religious beliefs of the eight were not relevant to their defense.

° According to a memorandum from the Immigration and Naturalization Service's Central Office to all field offices, State Department advisory opinion "sticker" responses on asylum claims saying that the State Department has no specific factual information about the applicant "are not to be construed to be negative opinions or to constitute adverse evidence which must be made known to applicants prior to the denial of an application." The INS cable (file CO 208-P) says that in "sticker" response cases, the INS district offices should "move directly to a decision." Decisions in such asylum cases, said the memorandum, "are to be based upon the interview and any evidence submitted plus knowledge of country conditions found in the above country reports and other references which may be available."

At an oversight hearing in March, Rep. Bruce A. Morrison, chairman of the House Subcommittee on Immigration, Refugees, and International Law, characterized the State Department "sticker" responses to asylum applications as a "travesty of justice." (See Refugee Reports, Vol. X, No. 3.)

° The INS is plagued by sloppy management and accounting, according to an audit ordered by Attorney General Dick Thornburgh. Growing backlogs of case adjudications, millions of dollars in unnecessary overtime costs, and inconsistent policy implementation were some of the problems found. The backlog of case adjudications increased from 325,000 at the beginning of FY 87 to 408,000 at the end of FY 88, although total applications received during that time had only increased by 5,000, from 1.964 million to 1.969 million. The report noted wide discrepancies in denial rates for legalization benefits by INS offices within the same district.

INS Commissioner Alan C. Nelson said that the audit "was merely a list of exceptions which made no effort to look at the overall effectiveness of INS programs." However, Thornburgh's December 30 memo ordering the audit called for it to "cover the full range of financial and programmatic activities." In a March 2 memorandum to Thornburgh, Nelson said that the audit's list of "perceived problems...absolutely fails to present any perspective."

The leaking of the audit has been seen in Washington as part of building pressure to replace Nelson. "If the President or Attorney General wanted me out," Nelson said in a March 14 New York Times story, "it's very easy. They don't need to go through these oblique approaches."

Thornburgh told the Times, "We're undertaking a review of all positions in the department with regard to how those positions will be filled."

Resources

THE MORE THINGS CHANGE...HUMAN RIGHTS IN HAITI

The four military-dominated governments that have ruled Haiti since the fall of the Duvalier dictatorship have displayed a disturbing consistency in their willingness to direct and countenance violence and intimidation against political opponents, according to a February 1989 report issued by Americas Watch, the National Coalition for Haitian Refugees, and Caribbean Rights.

The More Things Change... Human Rights in Haiti concludes that the current military government of Lt. Gen. Prosper Avril, while vowing to hold elections and promote human rights, has continued the abusive practices of its predecessors. The 159-page report charges that Avril "has halted significant efforts to disband the paramilitary forces that have been behind the most violent episodes in Haiti's recent past," as well as reinstating army officers known for their violence and corruption. "He has countenanced violence against critics and popular organizations," says the report, "increasingly suggesting an intention to maintain military control of any future elected government."

The More Things Change... is available for $10 from Human Rights Watch, 36 W. 44th St., New York, NY 10036 or The National Coalition for Haitian Refugees, 275 Seventh Avenue, New York, NY 10001.

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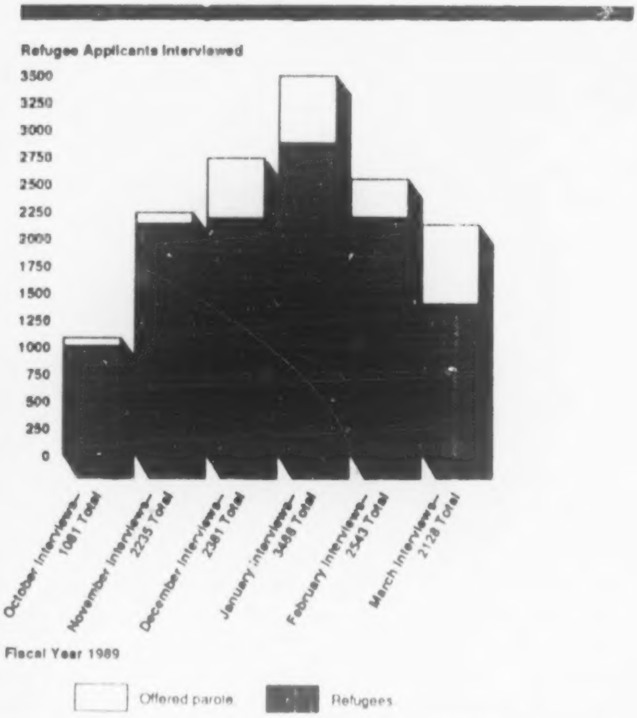

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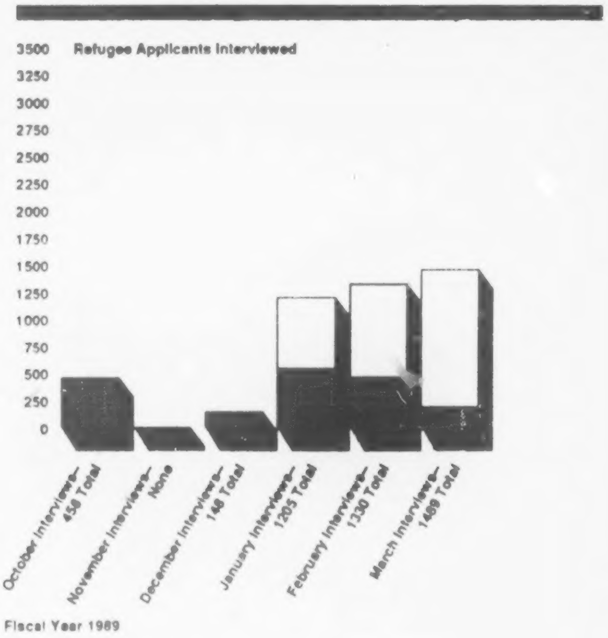

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DETENTION AND DETERRENCE IN TEXAS: CENTRAL AMERICANS IN INS PROCEEDINGS

[In April, Refugee Reports staff writers Bill Frelick and Hiram Ruiz traveled to south Texas to get a first-hand look at the conditions of detention and access to legal counsel for Central Americans in various stages of INS proceedings and to visit facilities offering shelter to those who are not in detention. This article is based on that visit.]

Since February 20, when a judge lifted his order that had halted a new U.S. policy to detain Central American asylum seekers crossing into south Texas, the Immigration and Naturalization Service (INS) has detained thousands of Central Americans and deportations are proceeding at a brisk pace.

The deterrent effects of the new policy appear to be successful--detentions have now dropped to about 50 to 60 per day, as opposed to 200 to 250 per day in March, and aliens stepping forward to apply for asylum voluntarily have dropped from 500 a day in January to less than 10 per day. But critics of the policy charge that many of the Central Americans in the system remain unaware of their legal rights--particularly the right to apply for and pursue claims for political asylum. They say that large numbers are being deported without having had their potential for refugee status thoroughly explored.

On May 1, U.S. District Judge David Kenyon issued a preliminary injunction against the INS requiring that Salvadorans be advised of their rights before being deported.

In taking this action, Kenyon determined that the INS had violated his previous order from the Orantes-Hernandez class-action suit requiring that Salvadorans be informed of their rights to be represented by an attorney and to apply for political asylum (see Refugee Reports, Vol. IX, No. 5). The suit had been brought on behalf of all Salvadorans eligible to apply for asylum who "have or will be taken into custody" by the INS.

Judge Kenyon found that various Salvadorans represented in the class-action suit "indicated that they have not had access to telephones to contact an attorney, that they have not seen the videotape

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prepared by defendants [the INS], and they they were neither given nor read the Orantes advisal."

Kenyon further found that, "as an indication that detainees are not being informed of their rights in any meaningful manner, the Court has learned that, out of a group of 67 Salvadorans deported from Port Isabel Service Processing Center on April 20, 1989, none were represented by counsel in their deportation hearings. The Court finds it difficult to believe that each of these individuals learned of and knowingly and effectively waived his or her right to counsel."

Judge Kenyon's preliminary injunction requires the INS to arrange for group legal rights presentations to be given immediately by attorneys and paralegals to all Salvadorans detained at the Port Isabel Service Processing Center; restrains the INS from limiting the content of the presentations informing detainees of their rights; and prohibits the INS from deporting or moving ahead with deportation proceedings against Salvadorans "until they have been given the opportunity to receive legal rights information through such orientations."

Linton Joaquin, director of the Central American Refugee Center (CARECEN), one of the attorneys representing the plaintiffs in Orantes-Hernandez, said that he doubted that the judge's injunction has actually halted deportations, but that it has allowed private attorneys to make group know-your-rights presentations. "This is a modest remedy," he said, "to at least provide access to attorneys." More generally, Joaquin said, "it shows a history of bad faith on the part of the INS. They violated the preliminary injunction [in 1982], and they violated the permanent injunction [in 1988]." Each time, Joaquin said, attorneys for the plaintiffs have had to go to court to seek relief.

Refugee Reports Visits Texas Detention Centers, Observes Deportation Hearings Refugee Reports staff surveyed a cross-section of locations that house Central Americans. In each place, we interviewed both those responsible for running the facilities as well as Central Americans in them. Sites included:

° the large detention center at Los Fresnos, called the "Port Isabel Service Processing Center" by the INS, but known to the Central Americans as "El Corralon"--the big corral;
° the Webb County Detention Center, which holds some of the overflow from Port Isabel, as well as aliens apprehended to the west of the Brownsville-Harlingen area;
° the Correctional Corporation of America (CCA) facility, which operates under contract to the INS in Laredo;
° the Red Cross shelter in Brownsville, which holds family groups in INS proceedings;
° Casa Oscar Romero, outside Brownsville, a Catholic shelter for Central Americans, most of whom appear to be undocumented and not yet apprehended by the INS; and
° the Casa Juan Diego church shelter in Matamoros, Mexico, where many Central Americans have stopped before crossing into the United States.

Refugee Reports accompanied Border Patrol agents on night operations in the Brownsville sector and interviewed Border Patrol and INS personnel in Brownsville, Harlingen, and Laredo. Deportation hearings before immigration judges with the Executive Office of Immigration Review (EOIR) were observed in Harlingen and Los Fresnos.

On paper, the asylum adjudication system set up by the Harlingen INS district office appears to be both quick and thorough. According to Alfonso De Leon, assistant director for examinations, at least four different people look at the applications--the initial examiner, who holds hearings with the applicant averaging 45 minutes per interview; the immediate supervisor; the Department of State person who gives an advisory opinion; another INS examiner, who reviews the application together with the advisory opinion; and a final review by a different supervisor.

With the additional INS personnel who have been detailed to Harlingen from other parts of the country, this whole process takes place in a single day. From a high of 45 examiners, who arrived at the start of the accelerated hearings, the number had been reduced to 35 examiners and 30 clerks by the time of the visit. At the beginning of April, the State Department contingent

F. is a Salvadoran woman detained at the Port Isabel Service Processing Center. At the time of Refugee Reports' visit, F. had been at the detention center for more than five weeks, but she had not seen a lawyer. F. received a list of lawyers, but had heard rumors that getting a lawyer would only prolong her detention. As she spoke to Refugee Reports, more than a dozen other women crowded around her. Although some of them thought that it was important to get legal help, none of them had seen a lawyer either. They gave various reasons: "Too many people;" "Too few phones;" "Lawyers are very expensive." Like F., almost none of the women had any understanding of the U.S. asylum process.

Photo credit: USCR/Hiram A. Ruiz

returned to Washington, D.C., but has continued the same day turn-around through use of telefax machines.

"I think every avenue for asylum is being explored," said De Leon. "We knew we would be under a magnifying glass, and that we could be [legally] challenged." He added that the interviews had revealed to his satisfaction that the majority had come for economic reasons. "Some have very sad stories, but it does not amount to persecution," he said.

Asylum Applications Drop Although the system, and the personnel to make it function, is in place, in reality, it virtually isn't operating.

Almost no one is voluntarily applying for asylum.

On April 5, the day before the Refugee Reports visit, there were only two asylum applicants, and only 10 in the previous week and a half.

Between February 21, when the program started, and April 5, a total of 617 Central Americans had applied voluntarily for asylum. Of that number, 529 had been denied and issued Orders to Show Cause (OSCs), placing them into deportation proceedings; 30 had been issued intent-to-deny letters; and 58 had been granted asylum.

Affirmative applications are now examined on the grounds of the remote Port Isabel Service Processing Center. Any person wanting to apply for asylum must now find his or her way to this out-of-the-way location, 20 to 25 miles from Harlingen. Even more daunting is that the person going to apply for asylum must present himself at a compound that, to all appearances, is a prison. Although the INS adjudications office--consisting of a trailer, a tent, and a temporary-looking building--is just outside the actual prison fences, it is clearly on the same grounds. The first thing one sees when approaching the facility is two parallel chain-link fences topped by barbed wire, and patrolled by guards circling the periphery on motorcycles.

During the Refugee Reports visit, none of the INS examiners was engaged in asylum adjudications. We were told that INS was finding other paperwork projects for them. A large tent ready to accommodate the affirmative applicants stood nearby, almost empty.

A Mass Deportation Hearing The pace is much different just yards away, where immigration judges from the Executive Office of Immigration Review (EOIR) have their offices, and conduct deportation hearings of twenty or more Central Americans at a time. Immigration judges conduct deportation proceedings, and can consider asylum requests in the course of those hearings. (See chart, p. 5, which contrasts asylum approval rates before immigration judges and INS district directors.)

Refugee Reports observed a group of 22 Central Americans--Hondurans, Salvadorans, and Guatemalans, but no Nicaraguans--in their first and, as it turned out, only hearing prior to deportation.

Crammed into a small cinder-block room, the detainees in their bright orange prison uniforms watched as the judge, in black robes, leafed through files and spoke into a tape recorder. None of the detainees was represented by legal counsel. The judge asked, "If it is necessary for me to order you deported, to which country would you wish to be sent?" Each person stood as his name was called and named his country. The judge asked each, "Is there any reason why you cannot be returned to...," and then he again sorted through files trying to match the name of the country with the name of the individual. Each answered, "No."

After explaining the option of voluntary departure, the judge asked, "Is the reason you do not apply because you do not have enough money to return home?" Each person answered, "Yes".

The judge then ordered them all deported. He told them that they had the right to appeal to a higher court if they thought his decision was unjust. "Do you all waive your right to appeal?" he asked. One man said, "I don't understand." The judge repeated that "you have the right to appeal to a higher court." The man fell silent as the group in unison waived their right to appeal.

Afterwards, the judge told Refugee Reports that this was the only hearing for these aliens. He said that he had not advised them of their right to apply for political asylum because each had named his home country as his preferred country of deportation, proving that none of them had a fear of persecution.

The immigration judge said that the Central Americans were sophisticated and well aware of their rights. He said, "These people know more about immigration law than you or I ever will."

A Refugee Reports reporter responded by asking, "Would a sophisticated person waive his right to legal counsel and his right to appeal?"

At that point, the judge rushed back into the courtroom, brought back the detainees, and reconvened the hearing. He said to the detainees, "These men say you are ignorant. Are you ignorant?" The group answered, "No." One man did say, "Well, there are some things we are ignorant about." The judge ignored him.

The judge called several of the people by name and asked each if he or she feared persecution based on each of the five enumerated grounds from the Refugee Act. Each answered "No" as the judge ticked off "race", "religion", "nationality", "membership in a particular social group", "political opinion". He asked why no one had requested asylum. One man said it was because "only Nicaraguans are given asylum." The judge did not respond to him either. After again telling the detainees that the observers had called them ignorant, he refused to allow one of the reporters to speak. He closed the hearing, looked over, and said, "I hope you're satisfied."

Conditions, Legal Access More Open for Central Americans in Red Cross Shelter

Hearings that Refugee Reports observed in downtown Harlingen contrasted dramatically with those in Los Fresnos. The Harlingen hearings, involving family groups from the Red Cross shelter in Brownsville, were individualized, not rushed, and efforts were clearly made to ask open-ended questions about fears of persecution.

For example, a Nicaraguan woman and her 5-year-old son came before one of the judges in deportation proceedings. He asked, "Are you afraid?" She answered, "Yes, I am afraid for my young son." "Why for your child?" he asked. "Because they pursue little boys, take them in the military. They say they will take him by the age of 10."

Even though he said that the articulated fear appeared to be at least five years off, the judge said to the woman, "If you apply for asylum, I will assist you in every way." He directed the court clerk to give her an I-589 asylum application form and gave her a continuance of two weeks to fill it out and seek legal counsel.

Although none of the Central Americans this reporter observed was represented by

COMPARISON OF ASYLUM APPROVAL RATES IN CASES BEFORE EOIR IMMIGRATION JUDGES AND INS DISTRICT DIRECTORS BY SELECTED NATIONALITIES, FY 1988

	DISTRICT DIRECTORS (INS)				IMMIGRATION JUDGES (EOIR)	
COUNTRY	CASES GRANTED	CASES DENIED	APPROVAL RATE FOR CASES DECIDED		CASES GRANTED	CASES DENIED
			INS	EOIR		
TOTAL	5,531	8,582	39.1%	22.6%	1,647	5,626
Afghanistan	36	55	39.5%	72.7%	80	30
Bangladesh	1	5	16.6%	20.0%	7	28
Chile	6	13	31.5%	25.0%	3	12
Cuba	30	64	31.9%	13.9%	90	557
Czechoslovakia	13	16	44.8%	57.0%	4	3
El Salvador	110	3,822	2.7%	12.0%	335	2,451
Ethiopia	441	131	77.0%	65.7%	48	25
Guatemala	24	447	5.0%	14.5%	59	349
Haiti	6	13	31.5%	3.5%	4	111
Honduras	10	125	7.4%	6.9%	7	94
Hungary	24	59	28.9%	41.2%	7	10
India	3	17	15.0%	6.5%	5	72
Iran	764	254	75.0%	60.9%	224	144
Iraq	18	14	56.2%	33.3%	6	12
Lebanon	56	97	36.6%	30.0%	24	56
Liberia	3	17	15.0%	33.3%	7	14
Libya	62	23	72.9%	63.0%	17	10
Mexico	0	60	00.0%	14.3%	3	18
Nicaragua	2,786	2,455	53.1%	37.4%	508	850
Philippines	4	36	10.0%	13.2%	5	33
Poland	433	373	53.7%	20.5%	41	159
Romania	345	71	82.9%	59.3%	16	11
South Africa	13	9	59.0%	66.6%	6	3
Sri Lanka	34	43	44.2%	29.3%	17	41
Syria	25	13	65.7%	38.5%	5	8
Uganda	15	14	51.7%	50.0%	2	2
Vietnam	8	2	80.0%	64.3%	9	5
Yugoslavia	6	59	9.2%	9.9%	14	127

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice and Executive Office of Immigration Review (EOIR)/U.S. Department of Justice.

Note: For the first time, the Executive Office of Immigration Review has made available asylum statistics under the 243-H INA statute. Data, however, are still only available for those offices with computer capability. We compare the approval rates in proceedings before immigration judges with the approval rates of those applying for asylum before INS district directors. Those denied by an INS district director have the option of raising their asylum claim again in deportation proceedings before an immigration judge.

legal counsel, the several judges operating there all attempted to communicate fully and clearly with them about their rights and options. None of these aliens named their home country as the country to which they would be deported; none waived any of their rights.

The single factor that determines whether a person is incarcerated at Port Isabel or taken to the Red Cross Shelter is whether or not the person is traveling with his or her children. Single people, or spouses without children, are detained at Port Isabel.

The Red Cross shelter has a relaxed, even a cheerful atmosphere. People wear street clothes, some of which is donated by church groups. Children play. Red Cross volunteers from around the country lend an atmosphere of welcome and camaraderie.

Located in a picturesque part of town, the people are free to wander about Brownsville during the day. Although the accommodations are simple, and have a temporary feel, no one was complaining.

Prisons Versus Shelters The contrast with Port Isabel was striking. One is a prison; the other a shelter. Also striking was the critical difference that placement in one or the other place had on legal access and, ultimately, on deportation. While INS staff at Port Isabel said that up to 120 people per day were being deported there, the Red Cross staff in Brownsville said that they were not aware of a single person from their shelter having been deported. A Justice Department official with the Community Relations Service in Brownsville confirmed that no one has been deported from the Red Cross shelter.

A trailer with private attorneys and paralegals offering free legal aid sits on the grounds of the Red Cross shelter. At Port Isabel it is a struggle for the detainees to locate legal counsel, and even for attorneys and paralegals to see the clients who have managed to contact them.

The staff of Proyecto Libertad told Refugee Reports that they frequently travel the long distance to Port Isabel, present a list of 10 names to the authorities, and wait for hours. Sometimes, a few people are located; sometimes, none.

Refugee Reports had the opportunity to observe the distance between attorneys and their clients literally from both sides of the fence. We saw the attorneys' waiting room and watched as a paralegal wrote down a list of names of detainees who had contacted her. Posted on the wall was a notice telling lawyers and paralegals that 24 hours notice would be needed to locate detainees. On the other side, we saw a long line of women detainees who had approached a guard on the inside looking for their names on his list. All of the women in the line returned to their barracks; the guard said that none of their names had appeared on any of the lists presented by the paralegals on the other side.

"I Don't Make War on Children" The director of the Port Isabel facility, Cecilio Ruiz, said, "We have done all we can to accommodate the attorneys." He said that when attorneys or paralegals come, names are announced on the loudspeaker and "runners" are sent to track down the clients. As Refugee Reports toured the facility, however, various announcements were made on the loudspeaker--almost all of them unintelligible.

Ruiz voiced a degree of hostility towards lawyers, saying, "I will protect [the detainees] against attorneys who want to take their money and give them wrong information."

He was also critical of Proyecto Libertad--the only organization in the area that gives free legal assistance to aliens in INS proceedings and which has been involved in litigation against INS practices--saying they were just interested in "getting their own way."

Of the detainees, Ruiz said, "They are all undocumented aliens. They all violated the law. They entered the U.S. illegally, period." He said, "My experience has been, in the files I have read, they are coming here for economic reasons."

Ruiz added that "they say they're going to get killed, but that's a lie. A large number are reapprehended [in the United States] after they were returned [to their home countries]."

The prison atmosphere at Port Isabel was underscored by some of Ruiz's other comments. For example, in distinguishing the treatment of family groups at the Brownsville Red Cross shelter from the detention of adults at Port Isabel, Ruiz said, "I don't make war on children. I don't want

LEGAL CENTER
CENTRO LEGAL

Outside the legal center on the grounds of the Red Cross shelter in Brownsville, paralegal worker Barbara Ferry answers questions from a group of Central Americans. Anyone staying at the shelter is allowed to go to the legal center to seek legal help or advice.

The impact of the legal advice available at the Red Cross shelter was evident at the immigration hearings that Refugee Reports observed in Harlingen. Red Cross shelter residents who appeared before the immigration judges at Harlingen seemed informed about the proceedings and able to respond appropriately to questions from the bench.

Photo credit: USCR/Hiram A. Ruiz

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children detained here. And I don't like to detain women."

But Port Isabel does detain women. Ruiz mentioned that "some of the women are on the edge." Couples without children at Port Isabel have complained that it is difficult for spouses to see each other. Refugee Reports toured the women's barracks. Although many chose to stay on their bunks, sleeping or talking in small groups, others were involved in a variety of activities. We watched volleyball games and aerobics exercises, in which the detainees were laughing and clearly enjoying themselves. At the same time, a line of women could be seen trying to use the single telephone in the noisy and crowded recreation room.

The Port Isabel authorities said that efforts are being made to install additional telephones--part of the requirement of the Orantes injunction--but at the time of our visit, long lines were seen at every telephone accessible to the detainees. Other telephones that guards indicated were for detainee use appeared to be in areas inaccessible to them.

The Isolation of Webb County Detention Center If legal access is difficult for Central American detainees in Port Isabel, it is well nigh impossible for detainees in the Webb County Detention Shelter. Anne Wallace, a local paralegal, told Refugee Reports that the few attorneys in the area willing to help couldn't possibly cope with the demand.

Located in a remote area outside Laredo, Webb County, like Port Isabel, has the look and feel of a prison. Surrounded by a barbed wire fence and guard towers, the detainees were all locked in their barracks on the Saturday of the Refugee Reports visit.

In fact, the detainees are not given time in the recreation yard from noon on Friday until Monday morning. They are normally given one hour per day of recreation time, five days a week, according to one of the guards. The detainees were further locked behind bars within the barracks, with television as their only visible source of recreation. The single telephone in the barracks was in the center aisle, from which the detainees are locked away. As we walked down that center aisle, detainees crowded against the bars on all sides pleading to us for help. A chant of "Pasta, Pasta" arose. One of the detainees told us that it had been 25 days since they had had any toothpaste. That detainee, a Salvadoran who is supposedly protected by the Orantes injunction, told us that he had not had access to paper or pencils for the duration of his detention. He also said that there is little time for calls and that "the police cut off the calls."

He also said that there are long delays before hearings before immigration judges. He said that many have been waiting for so long that they want to be deported. He estimated that about 40 people in his barracks wanted to be deported.

We were told that no immigration judges are posted permanently in the Laredo area, but that two judges come from San Antonio twice a month for about three days.

We asked the Salvadoran whether he had been notified of his right to apply for political asylum. He said, "They only asked me if I came with a smuggler, pressure to tell the truth about the smuggler."

He told Refugee Reports, "When they gave the papers, they said, 'Sign here, sign here, sign here. A uniformed person asked how many kids I have, about my wife, my work, birthdate, school, religion. He did not ask me why I left. The only thing he explained was the list of attorneys."

Under the Orantes injunction, the INS is required to provide a list of free and low-cost legal services. We were told by detainees and by local volunteers and service providers that the problem everywhere, but especially in Webb County, is that very few of the organizations listed actually help aliens in deportation proceedings.

The Salvadoran detainee said that he had been forced into the civil guard in El Salvador, but that "a few days later, they told me to disappear." We asked who "they" were. He said he had received an anonymous note telling him not to do the service. This was in October 1988. He fled shortly afterwards. He also said that his daughter had been kidnapped and held for ransom, but he wasn't sure whether the kidnappers were politically motivated or not.

He is being held under a $5,000 bond. "The judge told me I could be deported for free, otherwise I would have to pay."

Private-Run Contract Facility in Laredo

Whereas Port Isabel was holding an average of 2,184 detainees; the Red Cross Shelter, 925; and Webb County, an average of 350, at the time of our visit, the smaller Correctional Corporation of America (CCA) facility at Laredo was holding an average of 290 persons. Although contracted to the INS, the CCA facility operates somewhat differently from the INS facilities. Detainees wear street clothes, rather than uniforms. They are still locked up, however, and we observed several detainees in solitary confinement. Detainees at the CCA complained about the food, and the recreational facilities were as bad or worse than Webb County. The small recreation yard, which was not being used at the time of the visit, was dirty, rocky, and dusty. It featured a single basketball hoop, about 15-feet high. Two battered balls sat on the ground.

The guard later took us into a locked recreation office, and showed us a shelf of soccer and basketballs. None had a scratch or a mark. It was clear that they had never been used.

Detainees were held in locked rooms. We observed one room holding unaccompanied minors. None of the youths appeared to be doing anything other than sitting.

Arbitrariness of INS Detention Private attorneys as well as Community Relations Service (Justice Department) staff told Refugee Reports that special facilities had been set up near Brownsville to accommodate unaccompanied minors with an array of educational and recreational facilities.

The description of services for unaccompanied minors in Brownsville was quite at variance with the conditions observed at the CCA facility in Laredo. The discrepancy was all the more remarkable since there were no essential differences in the legal status of children held prisoner in the CCA, versus those held in the CRS facilities, or sheltered by the Red Cross.

Conditions of detention, and, as a consequence, access to legal counsel (which has a documented impact on whether or not a person is deported) appears to rest less on the merits of the person's asylum claim--the extent to which they can establish a well-founded fear of persecution in their home country--and more on a host of what are, essentially, peripheral factors:

- ° Whether a person traveled alone or with children;
- ° Whether a person is older or younger than age 18;
- ° Whether the person has money or friends in the United States;
- ° What date the person entered the country, before or after the policy change on February 20;
- ° Where the person was apprehended;
- ° Whether the person has valid travel documents;
- ° The person's country of origin, and its relations with the U.S. government.

While the disparities in the treatment of similarly situated individuals was striking, all face difficult challenges. The overwhelming majority of aliens incarcerated by the INS and facing deportation have no legal representation whatsoever. Among those interviewed by Refugee Reports, very few showed even a basic knowledge of their rights to apply for asylum and most seemed fatalistic and passive. Barriers to communication with legal representatives were evident, and it was clear that many did not see the point in trying to overcome these obstacles, with the result that their stories were never heard by the authorities.

Recent Developments

U.S. RESUMES DEPORTATION OF NICARAGUANS

On May 15, the U.S. government resumed deportation of Nicaraguans, after a seven-month period in which none had been deported. That day, ten Nicaraguans who had been detained at the Port Isabel Service Processing Center were among a group of 24 Central Americans deported, according to Virginia Kice, the Immigration and Naturalization Service's (INS) public affairs specialist in Harlingen. They were the first Nicaraguans to be deported from the United States in FY 89.

When asked at a regularly scheduled press conference on May 3 why no Nicaraguans had yet been deported this year, INS Commissioner Alan C. Nelson confirmed that the United States would resume deportation of Nicaraguans. At the time, the INS was seeking final approval from the Justice Department to deport about 100 Nicaraguans who had been served with deportation orders and had exhausted their appeals, or who had not contested their deportation orders. It was widely expected that the first group to be deported would come from among the 491 Nicaraguans who were being detained at Port Isabel at the time of the announcement.

Resumption of Deportations Causes "Sadness and Consternation" Nicaraguan refugee leaders were dismayed by Commissioner Nelson's statement. Dr. Jose Alvarado, coordinator of the Nicaraguan Task Force in Miami, told Refugee Reports that the announcement of renewed deportations was received "with much sadness and consternation" in the Nicaraguan community. According to Alvarado, "Nicaragua is disintegrating before our very eyes--politically, economically, socially. It makes no sense to deport anyone there."

Although the United States had not deported any Nicaraguans during FY 89 prior to May 15, the government had deported 87 Nicaraguans during FY 87 and 36 during FY 88. These figures do not, however, represent the total number of Nicaraguans "removed" from the U.S. That number, including "required departures" and "exclusions," was 209 for FY 88 and 315 for FY 87, figures that also represent late reporting by INS offices of Nicaraguans removed in previous years.

All Nicaraguan Deportation Orders Reviewed by Justice Department The rate of deportation for Nicaraguans has been significantly lower than that for other Central Americans. In July 1987, then-Attorney General Edwin Meese issued a memorandum saying that Nicaraguans with a well-founded fear of persecution would not be deported (see Refugee Reports, Vol. VIII, No. 8). Although "fear of persecution" is the standard for determination of asylum for all refugees, Meese instructed that every Nicaraguan deportation order be reviewed by the Justice Department. This was done by the Asylum Policy Review Unit (APRU), established in 1987 to monitor INS asylum operations.

The APRU reviews all Nicaraguan deportation orders, whether from INS district directors or immigration judges from the Executive Office for Immigration Review. For all other nationalities, the APRU only reviews deportation orders made by INS district directors.

INS spokesman Duke Austin said, "There has been no change in policy whatsoever." He said that the Meese memo still stands and that the functions of the APRU are unchanged.

Unfamiliarity with Asylum Process Drawback for Nicaraguan Asylum Seekers Although the Nicaraguans facing imminent deportation are those detained at Port Isabel, others throughout the United States could be affected. Alvarado worries that many Nicaraguans may suffer that consequence as a result of having submitted poorly prepared asylum applications. He told Refugee Reports that while there are legitimate lawyers and refugee assistance organizations trying to help, many Nicaraguans--unfamiliar with the asylum process--have fallen prey to private "immigration agencies" that charge the refugees to complete their applications, and then use standard responses to questions rather than trying to convey the experiences of each individual refugee. When they sign their asylum applications, Alvarado told Refugee Reports, "Many of the Nicaraguans have no idea what it is they have signed."

This concern is shared by Carlos Garcia, of the Committee of the Nicaraguan Community, a Miami organization that offers legal aid. "Lack of orientation," says Garcia, "is the Nicaraguan asylum seekers' worst enemy." As with other Central Americans, Nicaraguans have little or no understanding of the complex asylum process in the United States, adds Garcia.

VIETNAMESE BOAT ARRIVALS SOAR AGAIN IN HONG KONG

Since the beginning of May, 2,000 Vietnamese boat refugees have been arriving in Hong Kong each week, the highest rate in ten years. With third-country resettlement unlikely for most and the turnout for voluntary repatriation disappointingly small, Hong Kong government officials are searching desperately for alternative solutions.

Crowded into ferry boats, army barracks, factory buildings, and detention centers dotting the island colony, boat people in Hong Kong now number 32,000, double the figure one year ago. Local officials say they expect the population to exceed 50,000 within three months.

Since June 16 of last year, the Hong Kong government has been carrying out its own screening program to determine refugee status. Those who are screened in are placed in a refugee camp, pending an interview with a resettlement country. The screened-out are placed in detention centers to await eventual repatriation.

Since the program began, 1,117 Vietnamese have been screened out and only 116 have been determined to be refugees, as of April 1. The Hong Kong program has been criticized by a number of refugee and human rights groups as being overly restrictive. The UN High Commissioner for Refugees has threatened to stop monitoring the process unless improvements are made, according to a report in Hong Kong's South China Morning Post.

Screening was intended to have two effects, Hong Kong officials have said. The first was to deter new arrivals, and the second was to encourage voluntary return to Vietnam. As it has turned out, neither result has been achieved.

Boat arrivals did decline between September 1988 and March 1989, averaging only 360 arrivals per month during that seven-month span. But the numbers jumped to 2,918 in April, according to Hong Kong government figures, and total 3,929 in the first two weeks of May.

While summer traditionally has been a time of high arrival rates, observers attribute the surge in some part to an announcement by the six-member Association of Southeast Asian Nations that, as of March 14, refugee status will no longer be automatically provided by asylum countries to Vietnamese boat people.

Despite the cut-off date, Vietnamese may see the summer months as a last opportunity for asylum and consideration for resettlement before regional screening programs and other restrictive measures are fully implemented following the International Conference on Indochinese Refugees to be held in Geneva on June 13 and 14.

In addition to the traditional sea crossing, at least several hundred Vietnamese have taken a new overland route through China, as travel restrictions between Vietnam and China have eased.

In the meantime, only a handful of people have volunteered to return to Vietnam. A group of 75 flew home in March and another 74 returned on May 12. Fewer than 100 people still await further processing in Hong Kong.

"The signs are that voluntary repatriation isn't going to work," Michael Hanson, Hong Kong's coordinator for refugees, told The New York Times. With worldwide resettlement opportunities available for only about 4,000 Hong Kong Vietnamese in 1989, talk inevitably turns to forcible return.

"The U.S. screens people in south Texas and holds them in a detention center and repatriates them in one day," Hanson said. "They do the same to people from Haiti on a boat off the coast of Haiti. They pick them up, screen them on board the boat, deny them refugee status and then push them off. Now why are the Vietnamese different?"

Update

° On April 16, pirates armed with shotguns and hammers attacked a boatload of Vietnamese refugees off the coast of Malaysia; 130 people were shot, beaten, raped, or thrown into the sea, according to a May 7 article in The New York Times. Only one man survived what a UN official called "one of the worst incidents of piracy we have heard of."

In 1981, before any anti-piracy programs were implemented in the region, 77 percent of the Vietnamese boats arriving in Thailand were attacked, nearly 600 women and girls were raped, and nearly 900 people were dead or missing. Since that time, the attack rate has fallen to 8 percent. But refugee officials express growing alarm at the dramatic increase in the violence exhibited in these attacks.

From 1987 to 1988, the number of rapes and abductions of Vietnamese women doubled, according to figures from the UN High Commissioner for Refugees (UNHCR). Over 500 dead or missing were counted last year, a five-fold increase from 1987. U.S. embassy officials in Thailand suggest that 1989 figures could go still higher.

° On May 2, Hungary began tearing down the barbed wire fence that separates its border from Austria. Hungarian authorities said that they hoped the entire 150-mile fence would be removed by the end of 1990. "It makes Hungarians feel much better that we no longer have such an old-fashioned border with the West," said chief of the border guards, Col. Balaza Novaky, as reported in the May 3 Washington Post. On March 14, Hungary acceded to the Convention and Protocol Relating to the Status of Refugees. Hungary has granted temporary residence permits to 13,719 asylum seekers from Romania over the past year.

Although Austrian Foreign Ministry spokesman Walter Greinert was quoted in the Post story as calling the dismantling of the fence a "very positive sign," other Austrian government officials reportedly expressed fear that Romanians and other Eastern Europeans might now use Hungary as an easy transit route to the West by simply walking into Austria.

° Effective March 31, Bill Gee, director of the Office of Refugee Resettlement (ORR) for nearly three years, concluded his tenure in that position for the Reagan Administration. Phillip Holman is serving as acting director while continuing as director of policy and analysis for ORR. Mary Chi Ray, a former Vietnamese refugee active in national and local politics and refugee issues, has been named deputy director.

° Due to the drop in the number of Central Americans attempting to cross into the United States, the U.S. Border Patrol has reduced from 192 to 102 its special detail of additional officers who had been sent to the McAllen sector in south Texas. The New York Times reported on May 7 that 395 agents are permanently assigned to the McAllen sector.

° A 70-member riot squad was deployed to the Krome Avenue Detention Center in Florida on May 11 to control tensions among

Haitian detainees, according to the May 12 Miami Herald. Krome is still overcrowded; the 525-bed facility now holds 740 detainees, including 550 Haitians (see Refugee Reports, Vol. X, No. 4). The Herald reported that they were being confined for security reasons to eight separate areas of Krome in a "lockdown" order. All 22 telephones for the detainees were shut down.

On May 6, the Herald reported that 16 Haitian women had been transferred from Krome to the INS detention facility in Oakdale, Louisiana, due to the overcrowding. Krome was holding 152 women, but only had the capacity for 100. INS District Director Perry Rivkind was quoted as saying that the last seven months has seen "the heaviest movement of Haitians to the U.S. since I've been district director for the past six years." Rivkind reportedly attributed the increase to political upheavals in Haiti and to the magnet attraction of the Haitian community in Miami.

° Indochinese refugee admissions are likely to be heavy again in the last quarter of the fiscal year, according to an analysis provided by the International Rescue Committee (IRC). Given a Southeast Asian admissions ceiling of 46,500 in FY 89 (which includes first asylum admissions, Orderly Departure Program refugees, and Amerasian immigrants), a total of 17,880 Indochinese had entered the United States by the end of March, midway through the fiscal year (see chart on page 16).

The State Department has authorized admissions of an additional 12,985 Indochinese in the third quarter of FY 89. In order to meet the regional ceiling, 14,920 people would need to enter the country in the final quarter of the fiscal year. Examining the graduation schedules of the overseas language and orientation programs, IRC estimated that 9,300 Indochinese could enter the United States in September.

Projects and Programs

ON BOTH SIDES OF THE BORDER, RELIGIOUS GROUPS OFFER TEMPORARY HAVEN TO CENTRAL AMERICANS

Central Americans who make their way through Mexico to the U.S. border have found temporary shelter, in both Brownsville, Texas, and Matamoros, Mexico, through local Catholic groups. Casa Oscar Romero and Casa Juan Diego are unconnected and on opposite sides of the border, but both have offered temporary haven to Central Americans.

Casa Oscar Romero Established eight years ago in a two-bedroom house by nuns from the Missionaries of Jesus convent in Brownsville, Texas, Casa Oscar Romero--a shelter for Central Americans--now occupies a spacious, attractive compound just outside the Brownsville city limits.

It has not been an easy road for the shelter. In its early days, Casa Romero accommodated only four or five Central Americans at a time, usually women and children brought to the shelter by the border patrol. An increase in the number of people needing shelter and problems with the city authorities led the sisters to look for a new site outside the Brownsville city limits. Casa Romero's new neighbors tried to prevent the shelter from moving into its present facilities and, even after the shelter succeeded in moving in, built a two-story high watchtower to keep an eye on the sisters' activities.

The center's director, Sister Juliana, is well-known throughout the community for her dedication--and feisty spirit. Even the Border Patrol, who keep a watchful eye on the shelter, seem to avoid unnecessary tangles with Sister Juliana. Although they occasionally arrest people outside the shelter's gates--and on one occasion arrested a group of shelter residents traveling to the INS office in a van with Sister Juliana--the Border Patrol have never forcibly entered the shelter.

According to Sister Norma, also on the center's staff, almost all of the Nicaraguans--and some Central Americans of other nationalities--who stay at the shelter apply for asylum. Shelter staff ensure that they get help filling out their applications. Those who don't apply, usually only stay at the shelter a few days and then move on to other destinations.

The shelter depends on donations for many of its needs, and the response of church groups and individuals has been generous. The residents themselves are responsible for cooking and cleaning, which is done on a rotating basis. Casa Romero has a relaxed atmosphere. On the the day of a Refugee Reports visit, some residents were making handicrafts, while others were playing pool, singing, or watching television, and the good rapport between the residents and the sisters was evident. Casa Romero, though just a temporary stop for all its residents, was clearly a home to them.

Casa Juan Diego The city of Matamoros, only a bridge away from Brownsville, is the last stop in Mexico for many Central Americans heading to the United States. Unlike Brownsville, a quiet border town, Matamoros is a bustling urban center. But for Central Americans arriving here with no place to stay, it can also be an expensive--and dangerous--place to be.

Casa Juan Diego, a shelter run by Our Lady of Lourdes parish, provides a safe haven for those awaiting the right moment "to cross." Because the shelter can only offer a limited number of beds, residents are only supposed to stay for three days. At the time of a Refugee Reports visit, however, the shelter was not full, and some of the residents had been there for more than a week. They were aware of increased border patrols on the U.S. side of the border, and were concerned about their chances of making it across.

According to Reverend Oscar Lozano, the parish priest who runs Casa Juan Diego, the average number of residents at the shelter has declined each month since stricter policies went into effect on the U.S. side of the border. In January, the shelter had more than 500 residents. During the first week in April, there were only ten. Rev. Lozano thinks that the U.S. policy will only diminish, not bring to a halt, the flow of Central Americans seeking to enter the U.S.

Although Casa Juan Diego does not ask residents why they are going to the United States, Rev. Lozano has talked informally

At Casa Oscar Romero near Brownsville, Central Americans staying at the shelter relax in the company of Sister Norma, one of the Catholic nuns who helps run the shelter.
Photo credit: USCR/Hiram A. Ruiz

with a number of them. "Frankly," he says, "my impression is that many of them are looking for jobs and a better life--although there is no shortage of those who feared for themselves and their families."

Local people in Matamoros have also been very supportive of Casa Juan Diego. The shelter has over 700 volunteers, some of whom prepare meals in their homes and bring them to the shelter. Rev. Lozano says that although many of the Central Americans have faced problems as they crossed Mexico, particularly from police and those who pretend to be police, many Mexicans who sympathize with the Central Americans have also done what they could to help them.

Current Research

MENTAL HEALTH CRISIS IN SITE 2

There is a "widespread and deep-rooted mental health crisis" among the 180,000 residents of Site 2 camp on the Thai-Cambodian border, and essentially no organized system for treating persons with serious psychiatric disorders, according to a study published in February by representatives of the World Federation for Mental Health (WFMH).

Suicide attempts have more than doubled in the past two years. Over 90 percent of the attempts are by women between the ages of 15 and 30. Children increasingly are becoming victims of sexual violence. Beatings and domestic abuse are commonplace.

The factors that contribute to mental illness in the camp include:

1) Trauma. Most Cambodians in Site 2 have already suffered deprivation, physical injury and torture, and incarceration during the four-year rule of the Khmer Rouge from 1975 to 1979. "The extensive violence in Site 2 constitutes a 'second wound'--a re-traumatization of individuals who have already suffered from severe victimization."
2) Lack of physical safety and protection. Periodic shelling and attacks on the camp, domestic violence, and the lack of effective law enforcement and security inside the camp "markedly increase levels of anxiety and depression." The study cites a medical report from the American Refugee Committee that "violence has become the major public health problem in Site 2."
3) Overcrowding.
4) Poverty.
5) Malnutrition. Recent surveys by the UN Border Relief Operation show that the acute malnutrition rate for children under 5 is about 5 percent, but chronic malnutrition, which is "a significant factor contributing to the development of chronic psychiatric disability," is as high as 50 percent.
6) Demoralization. This is caused by "complete and confining dependency for the basics of life; political conditions that block both resettlement and repatriation; the censorship of mail; the monotony of food (nothing but rice and canned fish for years on end); [and] the barrier to being reunited even briefly with relatives in other border camps only a few miles distant."

While the primary health care system in the camp performs "exceptionally well," the WFMH team found, "a comparable system does not exist for psychiatric intervention."

The report made three major recommendations for alleviating the crisis:

1) There first should be "fundamental changes in the camp's social, physical and economic structure." Improvements need to be made in the areas of nutrition, public health, special education, security and law enforcement, and political and economic planning.
2) A new comprehensive mental health system should be established in Site 2 patterned after the one that existed in Cambodia prior to 1975. "In that system, one central psychiatric hospital in Phnom Penh served the entire country. Mentally ill patients in rural areas were treated first by [Buddhist] monks or Krou Khmer [traditional healers]."
3) A three-year technical assistance program should be funded that would utilize Khmer mental health professionals to recruit and train Khmer mental health workers in camp. Technical assistance should also be provided to Buddhist monks, Krou Khmer, the Khmer Women's Association, and an innovative project called the Khmer People Depression Relief Unit, which provides both traditional healing and Western counseling.

Community of Confinement: The Mental Health Crisis in Site Two was written by Richard F. Mollica, M.D. and Russell R. Jalbert and is available for $15.00 from the Indochinese Psychiatry Clinic, 77 Warren Street, Boston, MA 02135. (617) 782-6711.

Resources

NEW REPORT ON KHMER ROUGE ABUSES ALONG THAI-CAMBODIAN BORDER

A report issued in February by Asia Watch accuses the Khmer Rouge of moving 15,000 Cambodian refugees from camps under Khmer Rouge control inside Thailand to combat zones close to or inside Cambodia between June and November 1988. Vietnamese troops in Cambodia responded to these moves with intensive shelling--killing and wounding scores of people and scattering the rest.

"The attempted forced repatriation," the report said, "was a violation of international human rights standards and laws regulating armed conflict" in that it drove civilians into a war zone. Those injured by the shelling, moreover, were denied access to medical care.

Between June and September 1988, the Khmer Rouge moved 7,000 to 8,000 people from Ta Luan camp; then in early October, another 5,000 to 9,000 refugees were removed from O'Trao. Both groups were moved to so-called "repatriation villages" straddling the border or inside Cambodia.

"The 1988 displacements were by no means the first," the Asia Watch report said. In August 1985, the Khmer Rouge trucked 5,000 civilians to Phnom Dey, a military camp closed to foreigners. In January 1987, more than 1,600 residents of the Khmer Rouge "showcase" camp, Site 8, were moved to Natrao, 150 miles away. "Most of those moved were women who acted as ammunition porters during a period of escalating clashes between the Khmer Rouge and Vietnamese forces."

"The population removals of late 1988," said the report, "together with the documented pattern of systematic human rights abuses in Khmer Rouge-controlled camps and the determination to keep refugees away from the 'contaminating' influence of Western and international aid agencies, are chillingly reminiscent of the barbarous practices that characterized Khmer Rouge rule in Cambodia from 1975-1979."

In order to protect Cambodian refugees in Thailand from further abuse, Asia Watch recommends that the camps should be made fully accessible to international humanitarian agencies; refugees should be allowed the freedom of choice to transfer from a Khmer Rouge camp; and planning should start immediately for voluntary repatriation to Cambodia. "If a system allowing freedom of choice is not established soon," the report stated, "there are likely to be further attempts by the Khmer Rouge to move refugees forcibly to areas vacated by the departing Vietnamese troops."

The report also called for an end to military aid to the Khmer Rouge, prosecution of the Khmer Rouge leaders most responsible for the Cambodian genocide, and removal of the estimated half million mines planted along the border.

Khmer Rouge Abuses Along the Thai-Cambodian Border, based largely on interviews with refugees and aid officials conducted along the border in November 1988, was written by Mary Kay Magistad. It is available for $5.00 from Asia Watch at 1522 K Street, NW, Suite 910, Washington, DC 20005 (202) 371-6592; and 36 West 44th, Suite 911, New York, NY 10036 (212) 840-9460.

Reader Exchange

On June 27 at 10:00 p.m. (EST) the documentary film, Situation Zero, will be fed into the Public Broadcasting System's (PBS) national network. Independent PBS stations across the country have the choice of either broadcasting the film at that time, recording it for later transmission, or disregarding the feed.

Situation Zero, made by independent filmmaker Stanley Harper, portrays the life of a simple Cambodian family trapped in Site 2 camp on the Thai-Cambodian border and their struggle to maintain hope and dignity in the face of an ongoing guerrilla war and the grinding monotony of camp life.

Readers should contact their local PBS stations for local air times.

SUMMARY OF REFUGEE ADMISSIONS, FIRST HALF OF FY 89

COUNTRY OF CHARGEABILITY	FY ADMISSIONS AS OF 3/31/89	FY 89 CEILING
AFRICA		
Angola	15	
Burundi	3	
Ethiopia	534	
Lesotho	2	
Malawi	1	
Mozambique	3	
South Africa	10	
Uganda	28	
Zaire	2	
TOTAL AFRICA	598	2,000
EAST ASIA--1ST ASYLUM		27,000
Cambodia	1,576	
Laos		
Highland	3,025	
Lowland	2,762	
Subtotal Laos	5,787	
Vietnam	5,839	
Subtotal 1st Asylum	13,202	
ODP		19,500
Amerasian Immigrant	1,280	
Refugee	3,398	
Subtotal ODP	4,678	
TOTAL EAST ASIA	17,880	46,500

COUNTRY OF CHARGEABILITY	FY ADMISSIONS AS OF 3/31/89	FY 89 CEILING
EASTERN EUROPE/USSR		
Albania	29	
Bulgaria	41	
Czechoslovakia	530	
Hungary	470	
Poland	1,724	
Romania	1,450	
Soviet Union		
Direct	1,926	
Non-Direct	11,544	
Subtotal Sov. Union	13,470	
Yugoslavia	1	
TOTAL EASTERN EUROPE/USSR	17,715	31,500
LATIN AMERICA		
Cuba	519	
Nicaragua	100	
TOTAL LATIN AMERICA	619	3,500
NEAR EAST/SOUTH ASIA		
Afghanistan	873	
Iran	2,716	
Iraq	34	
Lebanon	1	
Libya	1	
TOTAL NEAR EAST/SOUTH ASIA	3,625	6,500
GRAND TOTAL	40,437	90,000

Source: U.S. Department of State, Bureau for Refugee Programs

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CONGRESS FUNDS MORE FY 89 REFUGEE ADMISSIONS
ORR GETS NO NEW MONEY

Congress has approved a supplemental appropriations bill giving the State Department $85 million to admit an additional 22,500 refugees in FY 89. But, for the second year in a row, no new funding has been provided to the Office of Refugee Resettlement (ORR) for domestic resettlement services to the new arrivals. And with the Administration proposing a $140 million cut in the ORR budget for FY 90, state refugee officials are protesting loudly that the federal government is trying to transfer the financial burden for resettlement services onto the backs of local communities.

In late May, following private consultations with Attorney General Dick Thornburgh, the House and Senate Judiciary Committees formally approved the Bush Administration's request for 22,500 new admissions numbers, in order to accommodate increased resettlement needs for Jews, Christian Pentecostals, and Armenians emigrating from the Soviet Union. This brings the FY 89 worldwide admissions ceiling to 116,500, which includes 4,000 unfunded numbers available for private sponsorship.

On May 24, the House passed a $3.7 billion Dire Emergency Supplemental Appropriations bill (H.R. 2072), which provided $85 million for refugee admissions and another $15 million for refugee relief and assistance overseas in FY 89. The $85 million covers overseas processing and admissions costs for 22,500 additional refugees as well as providing full federal funding to 6,000 existing admissions spots that previously had been "semi-funded."

Of the 28,500 additional, fully funded admissions numbers, 24,500 have been allocated to the Soviet Union, 3,500 have been restored to the Southeast Asian regional ceiling, and 500 returned to the Near East/South Asia region (see Refugee Reports, Vol. X, No. 4). The Asian numbers had been transferred by the State Department last December to bolster Soviet admissions.

The Senate passed its own version of the supplemental funding bill on June 7, which also adds $100 million to the State Department refugee account but differs substantially from the House bill in other

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areas. A conference committee, comprising members of both the House and Senate, was expected to meet the week of June 12 to resolve the differences in the two bills but had not done so at press time.

No New Funding for ORR So Far This Year

When the Administration first proposed supplemental funding and admissions numbers for FY 89 in April, it requested no new money for ORR. Instead, the Administration proposed transferring $21.9 million within the existing ORR budget. The funds will be removed from the line item for refugee cash and medical assistance (CMA) and transferred to the voluntary agency matching grant program.

Under the matching grant program, which traditionally has been employed to resettle Soviet Jews but is open to all refugees, ORR will match up to $957 per refugee in cash and in-kind contributions generated by private voluntary agencies.

As a result of this reprogramming of funds, ORR will need to reduce the period of full federal reimbursement to states for cash and medical assistance from 24 months to 18 months, Catherine Bertini, acting assistant secretary for Family Support in the Department of Health and Human Services (HHS), told the House refugee subcommittee on April 6.

The response from Congress was largely critical. In a May 26 letter to President Bush, Sens. Joseph R. Biden, Jr. (D-Del.) and Edward M. Kennedy (D-Mass.) said the Administration's plan "places an unreasonable burden upon the states and local communities...[and] evades the federal government's responsibility to fully fund existing resettlement programs while admitting even more refugees." The letter urged Bush "to either support additional domestic funding, or to adjust refugee admissions levels in accordance with the amount of funding available."

In a May 24 speech on the House floor, Rep. Howard Berman (D-Cal.) said that without adequate federal support for refugee resettlement, "we are inviting states and cities to hang out a shingle--'refugees not welcome here.'" Berman urged the Senate to include provisions for domestic resettlement costs in its version of the supplemental appropriations bill.

HHS officials testified in May that the Department had sought an additional $22 million but was rejected by the Office of Management and Budget (OMB). And, despite what appears to be significant support in Congress for supplemental ORR funding in FY 89, neither the House nor the Senate offered any amendments to that effect on the emergency appropriations bill.

One source told Refugee Reports that the House and Senate appropriations subcommittees for Labor-HHS-Education have required that any money added during this fiscal year must be offset by a reduction in another domestic program. "There was no money," the source said, "A lot of programs are being squeezed pretty hard."

Nevertheless, a roundabout form of relief for ORR may be in the works in Congress. A Senate Appropriations Committee report accompanying H.R. 2072 stated that "It is the Committee's intent to consider additional amounts for the Office of Refugee Resettlement to cover any FY 89 shortfall as part of the regular FY 90 Labor-HHS-Education appropriations bill." A Congressional source told Refugee Reports that if Congress follows through on this, it would appropriate an additional $22 million for the FY 90 matching grant program and then spend it retroactively to cover FY 89 costs.

States Upset at Growing Share of Resettlement Burden

Even if retroactive funding is made available for FY 89, state refugee officials say, that still would not offset the trend to increase the state and local share of resettlement costs. After analyzing ORR cash and medical assistance data, Ron Spendal, state refugee coordinator for Oregon, concluded that $18.3 million in resettlement costs were shifted to the states in FY 86 when, on March 1 of that year, ORR reduced the CMA reimbursement period from 36 months to 31 months.

States absorbed $30.6 million in CMA costs the following year, Spendal told Refugee Reports. On February 1, 1988, ORR further reduced the federal reimbursement period from 31 months to 24 months, and the states assumed another $74.4 million in costs that year. In FY 89, the transferred costs will climb to nearly $100 million, he said.

"That's just the cash and medical assistance costs," Spendal said. "On a per capita basis, the federal budget for refugee

SENATE FUNDING BILL INCLUDES NICARAGUANS IN TARGETED ASSISTANCE PROGRAM

A number of states, and California in particular, have expressed opposition to an amendment in the Senate version of the emergency funding bill that designates at least some Nicaraguans in the United States as "entrants" and includes them within the definition of refugee. The term "entrant" previously applied only to specific groups of Cubans and Haitians.

A Senate report on H.R. 2072 said, "This will permit Nicaraguan entrants to be considered in the allocation of funds under the refugee targeted assistance program." The request was not considered by the House, the report said, "due to late transmittal by the Administration."

A Congressional source told Refugee Reports that it was OMB's idea to propose that Nicaraguans be included in the refugee population eligible for targeted assistance. Currently, the targeted assistance program is funded at $34 million, which is distributed among 10 states and a total of 41 counties.

According to Phil Holman, acting director of ORR, the Administration's working definition of Nicaraguan entrant is someone who entered the United States between 1983 and 1988 and has applied for political asylum. An estimated 62,844 Nicaraguan entrants live in states and counties eligible for targeted assistance, Holman said, with 40,899 in Florida, 17,626 in California, and 922 in Texas.

Both California senators denounced the proposal in June 7 floor speeches and urged that it be deleted when the conference committee met on the bill. Sen. Alan Cranston (D-Cal.) said the provision was "ill-conceived" and "bad policy" in that it "seeks to resolve a problem caused by the recent influx of Nicaraguan entrants...in such a way that more problems will be created than solved."

Cranston said that the targeted assistance program (TAP), created and funded for refugees, not political asylees, was already stretched to capacity. In Los Angeles County, TAP funding per refugee arrival has fallen from $1,362 in FY 83 to $171 in FY 88, he said.

"Given the problems with securing adequate funding for targeted assistance programs," Cranston said, "and the fact that President Bush has proposed eliminating this program in his 1990 budget, it makes no sense at all to propose allocating very limited TAP resources to accommodate an even larger population than that currently served."

"If we are going to establish a precedent of allocating resources for refugee programs based on the numbers of people seeking political asylum," Cranston continued, "then fairness dictates that we do so for all political asylees instead of singling out asylees from a specific country."

One state refugee official, who called the proposal "deeply cynical" and a "slapdash way of looking at a serious problem," estimated that less than $100 per person would be available for TAP services.

"There has been no decision on a final formula for allocating the money," Holman said. "We are waiting to see whether this is included in the final bill." He did say, however, that a "major portion" of the available funds would go to Florida.

"This was the Administration's proposal, not ours," said Bob Rogan, legislative assistant to Sen. Bob Graham (D-Fla.). "The entire Florida delegation has been lobbying for assistance for Nicaraguans but it was not our goal to take money from California." Besides, he said, the targeted assistance money "is a crumb. We need a lot more than that."

Graham has introduced a bill, cosponsored by Sen. Connie Mack (R-Fla.), that would amend the Immigration and Nationality Act to allow the Attorney General to release up to $20 million from the Immigration Emergency Fund to communities impacted by the recent influx of asylum seekers.

"Impact aid is desirable but no substitute for protected status and work authorization," said Rick Swartz, former president of the National Immigration, Refugee, and Citizenship Forum. "Enactment of Moakley-DeConcini is the only pragmatic approach to meeting the needs of the refugees and the communities." (See Recent Developments)

STOP PRESS: Refugee Reports learned at press time that the House-Senate conference committee on H.R. 2072 has deleted the Nicaraguan amendment.

social services and preventive health has also been declining."

Figures provided by the County of Los Angeles, Chief Administrative Office indicate that domestic federal funding per refugee arrival has dropped from about $11,000 in FY 83 to $3,200 in FY 89 (see chart on back page). In FY 87, federal funds provided $5,100 per refugee arrival. That was the last year in which the ORR budget matched the actual, end-of-year level of refugee admissions.

In FY 88, the U.S. government decided to admit an additional 15,000 refugees, primarily Armenians, from the Soviet Union but no additional funding was provided to either the State Department or ORR. In FY 89, the State Department will receive supplemental funds but ORR may still get nothing.

"The Administration tells us that it's better than last year, because at least there is some money for the international aspects of the program," said Susan Greene, a senior policy analyst with the National Governors Association (NGA). "We feel it is more of a slap in the face. The message is: 'The states will pick up the tab.'"

According to Spendal's calculations, even if additional money is found in FY 89, ORR will not be able to reimburse states for a full 24 months of refugee CMA this year. "Taking historical spending patterns and projecting them forward," Spendal said, "the cost of providing cash and medical assistance to 112,500 refugees will be about $62.5 million more than ORR has budgeted this year."

In order to maintain social services and preventive health services at last year's levels, Spendal said, ORR would need an additional $28.1 million.

The ORR budget for FY 89 refugee cash and medical assistance is $261.8 million, including state administration costs. Its total refugee budget this year is $382.4 million (see Refugee Reports Volume X, No. 2). An HHS spokesperson declined to comment on Spendal's figures, except to say that Bertini's April 6 statement reflected the department's current position on FY 89 budget needs.

FY 90 Budget is the "Real Battleground" Say the States All the debate on the FY 89 ORR budget may only be skirmishes leading to what NGA's Greene called the "real battleground" of the FY 90 budget. ORR has requested a total of $242.3 million dollars to resettle a projected 84,000 refugees next year. Federal reimbursement for state cash and medical assistance costs would be reduced from 24 months to 15 months. Employment services, formerly called social services, would be cut in half from $64 million to $30 million. Funding for the targeted assistance program would be eliminated and large cuts would be made in preventive health and the matching grant program.

"All of the assumptions reflected in this budget are false," Spendal said. "Refugee admissions are likely to be well over 100,000, and every line-item in the budget is already far below the real costs and the real needs. OMB has simply established an arbitrary figure and ORR is forced to manipulate its budget to fit that."

Spendal said it was time for Congress to take a "good look" at national resettlement policy. "The last time they did that was in 1982," he said. "We need to look at the whole picture again, this time with an extensive amount of state input, since we are now substantial contributors to the resettlement program."

Wayne Johnson, chief of the Bureau of Refugee Programs in Iowa, said that good resettlement is based on partnerships between the public and private sectors and between the federal government and the states. "In 1975, Iowa jumped into this program at the request of the federal government," Johnson told Refugee Reports. "We came in willingly and the state has gained tremendously from the program, but the federal government keeps trying to back out. We're real conservative out here. We still believe a marriage should be forever."

Recent Developments

HOUSE AMENDS MOAKLEY SAFE HAVEN BILL FOR SALVADORANS AND NICARAGUANS

The Moakley/DeConcini bill calling for a temporary stay of deportation for Nicaraguans and Salvadorans in the United States underwent significant changes during mark-up in the House Subcommittee on Immigration, Refugees, and International Law.

Subcommittee Chairman Bruce A. Morrison (D-Conn.) introduced the amending language, which adds elements from a generic safe haven bill introduced in the previous session of Congress by the former chairman of the subcommittee, Rep. Romano L. Mazzoli (D-Ky.). (See Refugee Reports, Vol. VIII, No. 11 and Vol. IX, No. 10.)

Under H.R. 45, the "Central American Studies and Temporary Relief Act of 1989," as introduced by Rep. Joe Moakley (D-Mass.) on January 3, eligible Nicaraguans and Salvadorans could not be deported for a two-year period while the General Accounting Office (GAO) studies the conditions of displaced nationals of El Salvador and Nicaragua.

The new version establishes a "temporary protected status" for a three-year period, independent of the GAO study. It also establishes a cut-off date of March 1, 1989, which Morrison said was intended to prevent this legislation from becoming a magnet for more Central American migration.

The amended bill was reported to the Judiciary Committee without recommendation, as the vote on the amended version of the bill was a 5-to-5 tie vote. Rep. Mazzoli voted against the bill, along with all Republican members of the subcommittee.

Mazzoli continued to maintain that safe haven should be addressed generically, and not specify particular countries, which he said would deviate from the Refugee Act of 1980. Mazzoli has reintroduced his generic bill (H.R. 1355), but Morrison said that the bill would not be taken up until later in the year. "A non-country-specific bill is a nice idea," said Morrison, "but it provides no relief for these individuals" from El Salvador and Nicaragua.

Moakley Bill Will Entail Registration for Beneficiaries H.R. 45 requires eligible Nicaraguans and Salvadorans to register with the government in order to be granted work authorization and protection from deportation. In the amended version, they will be required to re-register annually, and can have their benefits rescinded for failure to do so.

Morrison told Refugee Reports that people who are in the United States "in illegal, indefinite status ought to be known to the government." He said, "The fact of the matter is that these people are here, and that our government does not have the desire or the will to send them home." He suggested that by requiring these people to come forward and register for work authorization, they could be deported later if the situation in Central America significantly improves.

James P. McGovern, legislative assistant to Moakley, who has been the House staff person most actively working for this bill during the past several years, termed the subcommittee action "a victory." He said, "This [subcommittee vote] was our toughest hurdle." He expressed optimism about the bill's future in the House, which has passed the bill in two previous sessions.

The key swing vote this time around was Rep. John Bryant (D-Tex.), who said, "I very reluctantly support this bill this year." He said that he doubted that many of the Central Americans crossing into Texas are refugees, and attributed the major increase in Nicaraguan arrivals in late 1988 to Voice of America broadcasts saying that Nicaraguans would be treated leniently. But, he said, "it is clear to me that they will not be deported, and could remain a permanent underclass. This bill allows us to identify where they are. Otherwise they will never go home."

Rep. Bill McCollum (R-Fla.), who recently returned from observing the elections in El Salvador, was one of the most vocal opponents of the bill. He acknowledged that "we are largely responsible for the Nicaraguans," and said he would be "sorely tempted" to support them. But, he said, "I do not see it the same for Salvadorans." He said that he was impressed with the strength of democracy in El Salvador, and that the "vast majority [of Salvadorans] could not qualify as refugees." He said that it would be bad policy to grant safe haven on economic grounds.

Rep. Howard Berman (D-Cal.) challenged McCollum's reading of the situation in El Salvador, saying that 50,000 had been killed in the continuing civil war, and that the elections should be viewed in that context. Berman asked rhetorically, "Do you think their motivation and fears to flee from brutality in war-torn areas of El Salvador are less credible [than Nicaraguans']?"

McCollum answered, "I was in the conflict areas, in the same areas where soldiers' bodies who had been shot that morning were still lying around. But the people were not afraid."

Morrison said that applying the refugee standard to this legislation is the wrong analogy and that it is specifically intended for people who do not meet the "well-founded fear of persecution" test. He pointed out that the more relevant analogy in current practice for "temporary protection status" would be the Attorney General's discretion to grant extended voluntary departure (EVD) status. This temporary stay of deportation has been applied to other nationality groups, such as Poles, "even when they are not in fear for their lives." (See Refugee Reports, Vol. VIII, No. 7.)

HOUSE HEARING LOOKS AT HAITIAN INTERDICTION, DETENTION

The House Subcommittee on Immigration, Refugees, and International Law held a hearing on Haitian interdiction and detention on June 8. Four panels testified, including members of Congress; the Administration (the Immigration and Naturalization Service, State Department, and Coast Guard); Miami officials and representatives of Haitian advocacy organizations; and legal experts.

Rep. Dante Fascell (D-Fla.), chairman of the Foreign Affairs Committee, the first witness to testify, said, "We have to eliminate what on its face--in reality and perception--is a discrimination. Period." Fascell said that the various legal definitions governing U.S. asylum policy "might look good on paper" but that they frequently resulted in disparities in the treatment of Haitians.

They Aren't Refugees, the Government Says The Administration witnesses' general response to such criticisms was that the Haitians under question have not articulated a credible claim for refugee status, that virtually all interdicted Haitian have been economic migrants, not refugees.

James L. Buck, deputy commissioner of the INS, testified, "Since the Interdiction Operation began in October 1981, more than 350 vessels carrying over 20,000 persons have been interdicted. Of that figure, only a handful of these persons were found to have a possible claim of persecution and were brought to the U.S. to pursue their asylum claims before an Immigration Judge."

Buck added, "As the numbers show, most come for a job, for a better place to live."

Alan J. Kreczko, deputy legal advisor for the Department of State, said, "Economic dislocation in itself does not constitute persecution."

Treatment of Haitians Shows Double Standard, Morrison Charges "In my opinion," said Rep. Bruce A. Morrison (D-Conn.), chairman of the refugee subcommittee, "Haitians have been singled out for especially harsh treatment, whereas other nationalities get favored treatment."

Morrison said, "Next week in Geneva the United States will be talking about boat people in Southeast Asia saying don't forcibly repatriate Vietnamese who do not meet the refugee standard. How does the standard differ for Haitians and Vietnamese?"

Kreczko answered that, unlike Haiti, Vietnam refuses to take individuals back; that the U.S. opposition to forced return of Vietnamese is part of "a comprehensive plan of action for the region"; and that, from a human rights standpoint, the State Department has a different assessment of the situation in Haiti and Vietnam.

Exclusion Versus Deportation Morrison questioned the distinction between "exclusion" and "deportation", calling it a "legal fiction that doesn't comport with reality." He said that some aliens who haven't entered are treated as though they had, while others who are physically present in the United States are treated as though they are not.

"Exclusion" is the legal status that applies to aliens who have not yet entered the United States, such as arrivals at an airport. Their rights are limited, since the alien has the burden of proof to show why he should be admitted. The law provides that excludable aliens "shall be detained." On the other hand, the burden of proof shifts to the government in deportation cases, to show why the alien should be removed. Deportable aliens are accorded more due process rights than excludable aliens, and, those seeking asylum have generally been able to "bond out" of detention while their cases are pending. Most Haitians are placed in exclusion rather than deportation proceedings.

Arthur Helton, director of the Political Asylum Project of the Lawyers Committee for Human Rights, recommended that the distinction between exclusion and deportation be abolished legislatively.

Deputy INS Commissioner Buck said that "the cost to the taxpayer would be extreme" if the distinction were to be abolished.

Morrison asked why Haitians interdicted within U.S. territorial waters are put in exclusion proceedings, rather than deportation proceedings, given that U.S. territorial waters are considered to be part of U.S. territory, which they have entered if they are within the three (or twelve) mile limit.

No Administration witnesses were able to answer the question, and said they would respond in writing.

Alternatives to Boat Exodus A comment by Buck that "the United States has a fully staffed embassy in Port-au-Prince, and any Haitian can apply for asylum in that embassy" drew fire from Morrison, who pointed out that Haitians do not have a legal right to apply either as an asylee or a refugee at the U.S. embassy in Haiti. He asked Buck whether Haiti was a designated country of "special humanitarian concern" by the United States (for purposes of refugee admissions). Kreczko acknowledged, "We do not have a refugee program for Haiti."

Morrison pointed out that Haitians with a well-founded fear of persecution have no options but to flee the country. He said that the 3,500 U.S. refugee admissions slots for Latin America and the Caribbean were virtually all allotted to Cubans.

Morrison asked whether the Administration had given any thought to a form of protection during the 6-month period of turmoil in Haiti in 1987 prior to the elections when about 500 people were killed similar to that which had recently been granted for Chinese residents in the United States.

Buck said, "I don't believe to my knowledge there were any deportations in that period of time and no interdictions."

Refugee Reports checked U.S. Coast Guard interdiction statistics for the period June-December 1987, and found that 2,781 Haitians were interdicted, of whom 2,761 were returned directly. The remaining 20 were believed to have been brought ashore for medical reasons. In addition, 99 Haitians were deported to Haiti during that same six month period and 48 required to depart to Haiti, according to the INS. Exclusion statistics were not available.

Are Returned Haitians Persecuted? Buck testified that "not a single case out of the 18,000 returned has been presented of a person who suffered harm as a result of an attempt to leave Haiti."

That point was challenged by Jocelyn Mc Calla, executive director of the National Coalition for Haitian Refugees, who presented sworn affidavits from Haitians who had been interdicted and returned to Haiti. One affidavit, from "Jean L." reads:

"Even though we did not organize many of these demonstrations [in 1986, protesting the policies of the National Government Council, known as CNG], we took part in them. Thinking that we were the leaders, the government often tried to bribe us, and regularly sent military envoys to threaten us and our children with death.... On December 8, 1986, the army arrested me.... I spent two days in jail before they released me.... But the troops would not let me live in peace. On July 2, 1987, troops went into Raboteau and started firing with little care for the lives of children, women, and the elderly.... They raided my house, and ransacked it. In addition, they raped my [common-law] wife.

"On September 9, 1987, the government again sent its troops to arrest us. We went into hiding....

"Finally, after all our struggle to change the country and the prospect that the authorities could murder us at any time, we decided to risk our lives at sea. I and many others organized a voyage on September 12, 1988, one day after the massacre perpetrated by Namphy regime and paramilitary death squads in St. Jean Bosco church, in Port-au-Prince.... Ten days later, the U.S. Coast Guard intercepted us at sea. This is when I learned that the Namphy government had been overthrown by a group of soldiers.... However, the [U.S.] immigration inspector who interviewed me declared that since there was a new government, they will return me to Haiti. They refused to admit that I had a good reason to leave Haiti and that death threats were still hanging on my head.

"The U.S. Coast Guard returned me and

the others to Haiti. Since my return, I have been forced to move from house to house, never sleeping in the same place, in order to ensure that the army never learns of my whereabouts and arrests me."

Returnees Charge INS Does Not Ask about Fear of Persecution Affidavits collected by the National Coalition for Haitian Refugees also revealed irregularities aboard the Coast Guard Cutters. "David I.", a campaign worker for the Movement to Install Democracy, who went into hiding after the bloody 1987 election campaign, testified:

"The [the U.S. Coast Guard] forced us to board their ship. They stated that if we didn't get on board they would beat us to get us on board.... From the minute we boarded, they did not ask us ask us any questions. There were no immigration inspectors who asked us any questions. We were returned to Port-au-Prince on February 9, 1989, only after another Coast Guard brought 77 more Haitians aboard. It was only before we arrived at Port-au-Prince that they asked each person his name and where he lived. Which means that they never asked us our reasons for trying to leave the country, what might happen if they returned us, nor if we were afraid of persecution..."

Update

° On June 13, the opening day of the UN-sponsored International Conference on Indochinese Refugees in Geneva, Britain issued a formal demand for the forcible repatriation of Vietnamese asylum seekers, to begin no later than October, according to The New York Times.

The demand was seconded by Australia. Ironically, the only two nations to speak out against the idea were Vietnam and the United States. "Unless and until dramatic improvements occur in [Vietnam's] economic, social and political life, the United States will remain unalterably opposed to the forced repatriation of Vietnamese asylum seekers," said Deputy Secretary of State Lawrence S. Eagleburger, head of the American delegation to the conference.

Vietnam's Foreign Minister Nguyen Co Thach said, "We reject resolutely all forms of coercion. Coercion constitutes a violation of the Declaration of Human Rights and could only bring on unforeseeable consequences."

The Comprehensive Plan of Action, which the conference is expected to ratify, promotes voluntary repatriation but also states, "If after the passage of reasonable time, it becomes clear that voluntary repatriation is not making sufficient progress towards the desired objective, alternatives recognized as being acceptable under international practices would be examined."

British Foreign Secretary Sir Geoffrey Howe said that the continued surge of Vietnamese boat arrivals in Hong Kong--9,200 came in May and 2,300 in the first three days of June--had created an "intolerable" situation. Hong Kong authorities have housed the colony's population of 38,000 Vietnamese in army barracks, abandoned factories, and on ferry boats moored in the harbor.

On May 30, the goverment escorted 400 Vietnamese new arrivals to Tai A Chau, a nearly uninhabited island on the edge of Hong Kong's territorial waters, and left them there with fresh water and provisions. The island has no shelter, running water, toilets, or electricity.

"I had to resort to this," said Michael Hanson, Hong Kong's coordinator for refugees. "I simply had no room for these 400 people." He said the new plan "should not be assumed to be short term."

° On June 6, Attorney General Dick Thornburgh directed the Immigration and Naturalization Service (INS) to extend for up to one year the visas of Chinese citizens currently in the United States. This directive followed a weekend of violence in China, in which an estimated 3,000 Chinese students demonstrating for democratic reforms were killed by attacking Chinese troops in Beijing's Tiananmen Square.

INS estimates that there are about 73,000 Chinese students currently attending U.S. schools and nearly 250,000 Chinese who are visiting or on business in the country.

At a June 9 news conference, President Bush was asked if he was prepared to grant political asylum to Chinese students in the United States. "They're not seeking asylum," Bush replied. "Asylum is a kind of... legal status and that's not what they're looking for. They don't want to flee China. They want to help change China."

Two days later, The New York Times reported that two officials at the Chinese consulate in San Francisco announced they were seeking political asylum, because they did not support what their government did to the demonstrators and they would not lie about what happened in Tiananmen Square as they had been requested to do.

"We won't fake it here," they were quoted as saying by an Associated Press reporter. "Before we are diplomats, we are Chinese and we are human beings." On June 14, the Washington Post reported that the two diplomats were undecided about applying for asylum in the United States.

Delia Combs, INS assistant commissioner for refugees, asylum, and parole, told a House hearing June 8 that Chinese will not be required to register for "deferred departure," but that they will have to come to INS offices for employment authorization.

° The Senate Judiciary Committee has approved legislation (S. 358) that would overhaul U.S. immigration law, capping legal immigration at 600,000 per year and creating a new class of "independent" immigrant visas for those without families in the United States who, nevertheless, possess other desirable qualifications, particularly needed job skills.

° In confirmation hearings on June 13, Jewel Lafontant, who has been nominated to succeed Ambassador Jonathan Moore as U.S. Coordinator for Refugee Affairs, indicated that she would not be taking the job of director of the Bureau for Refugee Programs (BRP) in the Department of State. "The Secretary of State will appoint a director" for BRP, Lafontant said. Moore had held both positions simultaneously.

Sen. Edward M. Kennedy (D-Mass.), chairman of the Senate subcommittee on immigration and refugee affairs, wrote a letter to Secretary of State James A. Baker, III on May 31 requesting that the U.S. Coordinator for Refugee Affairs and the BRP Director be staffed separately.

° Some 23,000 asylum seekers whose cases were pending or denied in the Los Angeles district have been given a second chance to apply for asylum as a result of a May 26 order by U.S. District Judge Terry J. Hatter, Jr. The order, stemming from a class action suit, Mendez v. Thornburgh, challenged the quick asylum adjudications of a special INS task force set up to make asylum determinations, saying that the plaintiffs were denied a meaningful chance to present their claims.

° Canadian Immigration Minister Barbara McDougall told a House of Commons immigration committee that the Canadian government has no intention of tracking people who are denied asylum after they have been returned to their home countries.

McDougall suggested that nongovernmental organizations, such as Amnesty International, would do "a better job than we do" of tracking returnees, the May 26 Toronto Globe and Mail reported. McDougall said, "Knowing the NGOs, they would swiftly let me know" if people being turned away by Canada were being killed or abused upon return.

Dan Heap, a member of parliament from the New Democratic Party charged that a number of people who have been sent back to their countries or origin have been roughed up or disappeared. He cited the case of a Somali who was imprisoned and beaten in Somalia following his rejection for political asylum in Canada.

° Several hundred Namibians were flown to Windhoek from Zambia and Angola on June 12, 1989, in the first flights of a UN-sponsored airlift that is expected to return more than 41,000 Namibians to their homeland over a six week period.

The repatriation came about as a result of the agreement for Namibian independence signed at the United Nations in 1988, which calls for free elections in Namibia--with participation by the Southwest Africa People's Organization (SWAPO)--on November 1.

° The Bulgarian government has forced thousands of its citizens of Turkish descent into exile in recent weeks. The expulsions are part of a five-year campaign of forced assimilation of Bulgaria's 900,000 member ethnic Turkish minority. The State Department estimated that 3,000 ethnic Turks have been expelled, according to the June 15 Washington Post, but Turkish border officials say they have accepted at least six or seven times that number.

REFUGEE RESETTLEMENT IN MINNESOTA

In this article, Governor Rudy Perpich of Minnesota surveys progress being made in Minnesota's refugee resettlement program, and the problems the state is confronting.

Roughly 37,000 refugees live in Minnesota; the majority of them came from countries located in Southeast Asia. These include approximately 15,000 Hmong, 8,000 Vietnamese, 6,500 Cambodians, and 5,000 ethnic Lao. Additional groups include refugees from Ethiopia, Afghanistan, Rumania, and the USSR. Although the current pace and number of refugees arriving in Minnesota do not rival the influx between 1979 and 1982, many individuals and families choose to settle here every year. During 1988, 2,700 refugees came to live in Minnesota--nearly 65 percent were Hmong.

Many people wonder why Southeast Asian refugees have settled in Minnesota. First, the local voluntary agencies have taken the initiative and responded to the State Department's request for resettlement sites. Also, many ethnic leaders have settled in the Minneapolis/St. Paul metropolitan area. In the case of the Hmong, for example, the resettlement of prominent clan leaders and the desire for family reunification have resulted in a large secondary migration. A third factor is that Minnesota has always had progressive social service policies, including humane public assistance programs, and we have made secondary education available to individuals beyond the age of eighteen.

In Minnesota, we are trying to address the needs of refugees through the coordination of private and public resources. Those providing services to refugees include voluntary agencies (such as Lutheran Social Services), Mutual Assistance Associations, individual sponsors, county social service agencies, and the Refugee Division of the Minnesota Department of Human Services. Other groups, such as the Council on Asian Pacific Minnesotans, the Minnesota Consortium, the Governor's Advisory Council on Refugees, and the Metropolitan Refugee Health Task Force, work to coordinate the efforts of those that provide direct services. One example of a recent cooperative effort to address the special needs of refugees is the Hearing Impaired Refugee Task Force. (See related story on page 13.) Through these groups, we are attempting to address the multitude of issues involved in refugee resettlement.

Our refugee resettlement program in Minnesota has aimed to ensure that a particularly vulnerable population does not become a permanent underclass. Though it is too soon to draw definitive conclusions, statistics suggest that this problem may be developing. Sixty percent of the Hmong, 43 percent of the Cambodians, and about 30 percent of the Vietnamese receive public assistance. In St. Paul, Asians occupy 75 percent of the public housing units; in Minneapolis they occupy 30 percent. It is crucial not to interpret these statistics as a failure on the part of the refugees; rather, the statistics may reflect a discrepancy between the assumptions on which we have based our public assistance and housing programs and the refugees' assumptions of successful resettlement. These trends, however, require us to rethink our resettlement policy.

Need for a New Resettlement Policy To develop effective and meaningful refugee programs, we must understand the magnitude of trauma many refugees have faced. While each group has faced its own particular catastrophe, as individuals they have all left loved ones behind in refugees camps or in their homeland. Many refugee families will never be united. Refugees commonly feel depression and grief over the loss of homeland, family, and status achieved in their home country. In addition, the tremendous barriers of language, culture, and education multiply the difficulty of adapting to American culture. For a number of refugees, these serious problems are made even worse by the experience of torture. The newly created Minnesota Center for Victims of Torture has uncovered many stories of torture, often witnessed by a spouse or children. This torture results in nightmares, isolation, and an inability to concentrate or perform routine activities. Current policies and programs do not adequately recognize the extent of trauma experienced by recent refugees. (See related story on page 12.)

Bob Anderson of the Minneapolis-based American Refugee Committee has identified the following three outdated assumptions in the federal Refugee Resettlement Policy:

1. The model designed in 1975--for relatively better-educated Vietnamese refugees who had some prior exposure to Western culture--will work for everyone;
2. Refugees can become self-sufficient simply by providing them with a job; and,
3. Refugee resettlement is a short-term problem.

Federal policies that reflect these assumptions make it difficult to adequately resettle Southeast Asian refugees.

First, the model designed in 1975 is no longer appropriate. The refugees that arrived in the late 70s generally came from urban areas and were well educated. For the last eight years, most refugees arriving in Minnesota have been from the mountains of Laos or the rural farmlands of Cambodia and Vietnam. In English-as-a Second-Language classes, more than 70 percent of the adults have less than six years of schooling. These refugees have different problems than their predecessors; their problems demand different solutions.

Second, self-sufficiency involves much more than having a job. Finding a job for a refugee with little or no education and/or transferable skills is difficult. Finding jobs for refugees--within one year of their arrival--with which they can support a large family is difficult indeed. Yet this is the expectation. Though recent refugees may face additional barriers, they desire what every American desires: self-sufficiency and a promising future for their children. Resettlement policy needs to better tap that desire.

Finally, refugee resettlement is not a short-term problem. Besides the education and employment issues, resettlement involves a variety of social concerns that require a long-term commitment of time and resources. Teen-age child-bearing, the inability to speak English, depression, racism, and crime victimization are but a few of the problems affecting refugees. Most refugees face not one, but many of these problems.

Minnesota's Commitment Minnesota is committed to helping refugees participate fully in their new country.

We are committed to continued leadership development in the refugee community--leadership that will reduce political factions and foster a vision of shared purpose. The Cambodian community, long divided along political lines, is now coalescing to address the many problems facing their people. The executive directors of the Mutual Assistance Associations meet monthly to discuss and act on concerns of common interest. The Governor's State Advisory Council on Refugees advises the executive branch on refugee policy; the Council on Asian/Pacific Minnesotans advises the state legislature. Both of these bodies help to develop community leaders. The Refugee Division in the Department of Human Services is funding two programs to help develop youth leadership; they also provide technical assistance to the Mutual Assistance Associations on management and leadership development.

We are also committed to improving public awareness about the problems involved in refugee resettlement. We must invite increased consultation with private citizens and organizations not directly involved in resettlement. Most of the current program design has come from those experienced with social services or those who work directly with refugees. It is time for a purposeful expansion of the dialogue on this critical issue. While continued support and guidance are needed from agencies that serve refugees, we need to involve a larger number of private and public organizations for a truly successful resettlement program.

Lastly, we are committed to using state resources to support refugee resettlement. I am requesting that the 1989 Minnesota State Legislature provide $2 million over the next two years to fund mental health and social readjustment programs for refugees; programs for Asian youth; bilingual case managers for Minnesota's welfare reform program; and bilingual interpreters at health care facilities. These initiatives represent a needed departure from complete dependence on federal programs.

We are proud of our state's history of responding to people in need; we look forward to the contributions that refugees will make to the vitality of our state. We have high expectations for these refugees and are willing to provide them with the necessary tools to share in the opportunities available to all citizens of our great nation.

Projects and Programs

MINNESOTA CENTER HELPS VICTIMS OF TORTURE HEAL HIDDEN SCARS

"Torturers don't just break the body. They strive to break the soul." So say the staff of the Center for Victims of Torture in Minneapolis. There, doctors, psychologists, and social workers try to help refugees and others who have been victims of torture to overcome the trauma of their past experiences and rebuild their lives.

The center was established in 1985, after a task force appointed by Minnesota Governor Rudy Perpich recommended its creation (See Refugee Reports, Volume VI, Number 7). Although many agencies that serve refugees have treated victims of torture, the Minneapolis Center was the first facility established in the United States specifically for this purpose.

The center now has five full-time staff members, including an executive director, clinical director, clinical psychologist, and four part-time staff--a physician, psychiatrist, social worker, and a second psychologist. They hope to add a physiotherapist to the staff later this year. The center does not receive any public funds. Its funding comes exclusively from foundations and private donations, although it receives in-kind assistance such as medical equipment from local hospitals and other assistance from the University of Minnesota.

Since it officially opened its doors, the center has received 269 referrals or calls for help from victims of torture. Of those, 162 were from individuals who fit the center's guidelines that clients be victims of political torture. Seventy of these 162 clients have received direct services from the center. Another 12 individuals, who were from outside Minnesota, received indirect assistance in that center staff traveled to the client's home area to train staff in local agencies working with the individual, and the remainder were referred to other agencies or given information.

An estimated 85-90 percent of the center's clients are from Minnesota. In some cases, however, the center accepts out-of-state referrals if a local group is able to sponsor the individuals and provide support during their stay in Minneapolis.

Torture Center Treats Refugees from Around the World The center's clients have come from a wide range of countries, which is not surprising as Amnesty International has documented that at least one of every three countries in the world has tortured or cruelly treated prisoners in its custody. The center treats more refugees from Ethiopia than from any other country, followed by refugees from El Salvador and Cambodia. Other clients are from South Africa, Iran, and eastern Europe. Recently, the center has begun to help a number of Vietnamese and Laotians who have been in "reeducation" camps.

Approximately 60 percent of the center's clients are refugees who have been resettled in the United States. Many of its other clients are undocumented Central Americans.

The center refers undocumented clients who wish to apply for political asylum to the Minnesota Lawyers' International Human Rights Committee, which helps them with the application process. According to Carl Soderbergh, staff attorney at the Lawyers' Committee, the organization has been increasingly successful in helping clients referred by the torture center to obtain political asylum. Mr. Soderbergh attributes this to an increased willingness on the part of the Immigration and Naturalization Service and immigration judges to accept evidence of the physical and psychological effects of torture.

Victims of Torture Need "Feeling of Safety" The center is located in a small house near the campus of the University of Minnesota. The staff chose a house rather than an institutional building in order to create a welcoming, non-threatening atmosphere for its clients, who are generally anxious and need reassurance that the center and its staff are safe.

Treatment is particularly intensive during the first weeks, when staff and clients strive to develop the trust which is essential to treatment. "One of the things about this particular type of trauma [torture]," says the center's clinical director, Barbara Chester, "is that it is a multi-faceted attack on every aspect of a person's life: physical, emotional, spiritual, family. In order to deal with this, they need some stability and a feeling of safety--some anchor--in their life."

The center's staff enhance that stability for the clients by helping build a supportive network for the client in the community. They provide training to other agencies working with the center's clients and to community groups that volunteer to help. According to Chester: "We are most successful with the people who have support from the community."

The average length of treatment for the center's clients is eight months to one year. Not all clients are successful in overcoming their trauma, but the center's staff are confident--and hopeful--about the work that they do. "Recovery is possible," says Chester, "These people have gone through probably the worst trauma that can happen to a person, and yet their spirit and vulnerability survive." "It's hopeful work."

For further information, contact:
The Center for Victims of Torture, 722 Fulton Street Southeast, Minneapolis, MN 55414. (612) 331-1820.

DEAF REFUGEES IN MINNESOTA LEARN AMERICAN SIGN LANGUAGE

When Peng Vang fled his native Laos in 1975, he was able to hear. But during three years in a Thai refugee camp, his hearing started and continued to deteriorate. "It is unclear if the hot climate there was the cause, or the malnutrition, lack of food, and the crowded area where we stayed or lack of medical attention," said Peng Vang, "but by mid-1977, I could not understand speech.

Becoming deaf was a particularly frightening experience for Peng Vang. He had two cousins back in Laos who had been deaf. They were relegated to the dirtiest, harshest work in the village, treated as servants, living in rags. He remembered what happened to them during the arduous trek out of Laos. For two months, the Hmong villagers walked, scavenging what little food they could along the way. Peng Vang's two deaf cousins starved, never making it to safety.

Peng Vang not only survived, but his resettlement in the United States in all likelihood opened opportunities for him that he never would have had in Laos.

But his struggle started before he reached the United States. While in the Thai refugee camp, Peng Vang found an English dictionary and studied it. "I taught myself to read and write English," he said, "but not how to pronounce it. Just the grammar and meanings of words."

After enrolling in high school in St. Paul, Minnesota, Peng Vang went on to earn a degree in electronics engineering technology from Mankato State University.

Today, Peng Vang works as a case worker with the Deaf Refugee Education Program (DREP) in the St. Paul Public Schools. He says that "electronics is still an alive dream," but that he feels a need for "helping my deaf refugee fellows to get services that otherwise would not be available to them" because of the difficulties they have in communicating.

Program Combines Sign Language Instruction with Social Services and Cultural Orientation There are currently 23 refugees enrolled in the DREP. In addition to Hmong refugees, there are also Cambodians, ethnic Lao, and Hispanics. Vietnamese have also been served by the program.

The program grew out of volunteer work on behalf of deaf refugees by Metro Hearing Impaired Seniors that started in 1985. Now the program is sponsored by the St. Paul Public Schools, and partially funded by the State of Minnesota refugee office.

In addition to classroom instruction, DREP features job skills training and frequent field trips. The Ramsey County Hospital has also worked closely with DREP in providing health education for the hearing impaired refugees.

For severely hearing impaired refugees, said Joan Harris Stephan, coordinator of the DREP, "the American Sign Language (ASL) they are taught here is their first formal language." She said that many have not really acquired their native languages, but instead have used gestures or mime, on which ASL can build. By the same token, those who are not "too English" in their thinking, who can "look for pictures or concepts and not a 'word order' or syntax will be open to understanding and communicating in cross-cultural gestures or mime." Stephan, who is herself hearing impaired, explained that ASL is at the halfway point between gestures

Joan Stephan (back to photo, on right) working with hearing impaired refugee students. Photo credit: RHIA/DREP

and mime on one side and English on the other. "The knowledge of ASL helps transcend the challenges of English acquisition," she said.

In fact, the diverse cultural and language backgrounds of the students and teachers do not seem to present a serious obstacle to their communication, and to the closeness that has developed among them.

"The deaf refugees are as leery of Americans as their families are at first, Stephan said, "but when there are persons who communicate at their level--teachers, case managers, other concerned volunteers--they develop trust. Interestingly enough, they often become closer to deaf persons and to hearing persons who can sign than to their natural family members, because they are communicating and accepted as individuals with the same rights and privileges as those who hear."

Stephan added, "We often find that we have to advocate for the students in their homes because of the cultural attitude, which is not favorable to deaf persons in general."

Stephan also expresses concern about the deaf people remaining in Southeast Asia, who receive no formal education or special education services. "I do hope that those who have resettled here could advocate for services in the countries they've left through correspondence and contacts they make with relatives there."

Resources

REFUGEE HEALTH ISSUES TRACKED

The American Refugee Committee's Refugee Health Issues Center in Minneapolis, Minnesota tracks the latest developments in refugee health care in Refugee Health Issues Quarterly.

The newsletter tracks the epidemiology of health problems of particular concern to refugee populations. Recent issues include discussions of lead poisoning and traditional Southeast Asian medicines, and the incidence of AIDS in Asia and its implications for refugee populations.

The April issue updates the occurrence of Sudden Unexplained Death Syndrome (SUDS). It reports ten cases among Southeast Asian refugees in the United States from October 1, 1986 through April 30, 1988. In the Thai refugee camp, Phanat Nikhom, 760 cases per 100,000 were reported among Hmong, Lao, and Cambodian men between the ages of 25 and 44. This is eight times the highest SUDS death rate documented among Southeast Asian refugees in the United States.

Although the number of reported SUDS deaths in the United States has declined, Refugee Health Issues Quarterly notes that the number of Southeast Asian refugee admissions has declined and that "the decline in SUDS cases may be related to this decline in newly arrived SEA refugees, since most deaths occur within the first two years after arrival in the United States."

The report notes, "Although studies have suggested that a structural abnormality of the cardiac conduction system and stress may be risk factors for SUDS, the cause of the deaths remains unknown."

Refugee Health Issues Quarterly reports that negotiations are underway for a study to determine the relationship between thiamine (vitamin B) intake and electrical abnormalities of the heart among refugees at Phanat Nikhom (see Refugee Repo[illegible], Vol. VIII, No. 2).

Refugee Health Issues Quarterly includes a "bulletin board" of meetings, resources, and position openings in the field of refugee health.

Subscriptions are free of charge. To be placed on the mailing list, call or write Garth Osborn, Manager, Refugee Health Issues Center, American Refugee Committee, 2344 Nicollet Avenue South, #350, Minneapolis, MN 55404. (612) 872-7060.

NEWSLETTER KEEPS TABS ON SOUTHEAST ASIAN REFUGEE STUDIES

Reviews of books, articles, and studies relating to Southeast Asian refugees are easily accessible through the Southeast Asian Refugee Studies Newsletter.

The quarterly newsletter, published by the Southeast Asian Refugee Studies Project of the University of Minnesota, covers the wide range of disciplines studying Southeast Asian refugees, including health, mental health, history, sociology, linguistics, education, and demography.

Reviews of current literature and resources are annotated, including information for ordering the items being reviewed. The Southeast Asian Studies Project also produces its own publications, including some of the most specialized studies available on the Hmong refugee population.

To be placed free of charge on the newsletter mailing list, send your name and address to the Southeast Asian Refugee Studies Project, CURA, University of Minnesota, 330 Hubert Humphrey Center, 301 19th Avenue South, Minneapolis, MN 55455. (612) 625-5535.

AGING MAGAZINE FOCUSES ON OLDER REFUGEES

Issue No. 359 of Aging, a magazine published by the Office of Human Development Services, Department of Health and Human Services, focuses on the specific needs, problems, and services available for older refugees, immigrants, and minorities.

The magazine features articles on language learning, health, mental health, and employment as they relate to elderly refugees, and focuses on state and local programs for older refugees, such as a Philadelphia project in which college students tutor older refugees in English and a Minnesota recreational and educational project in which older Vietnamese refugees produced an illustrated magazine, Old Pines in the Land of Ten Thousand Lakes.

Aging is available for $2.00 from: Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371.

RESOURCES ON AFRICAN HUMAN RIGHTS COMPILED

Human Rights Internet has published Africa: Human Rights Directory and Bibliography, an extensive collection of information about human rights in Africa and the organizations active in this field. The 308-page directory includes a bibliography with more than 1,000 entries with listings for each country on the continent. Cross-indexing by subject, geography, author, and organization increases the usefulnesss of the volume, which is also enhanced by handsome and haunting illustrations.

The directory, issued February 1989, is available for $35 from Human Rights Internet, Harvard Law School, Pound Hall, Room 401, Cambridge, MA 02138. Subscriptions to Human Rights Internet Reporter, published four times per year, are available for $40 for individuals, $60 for institutions.

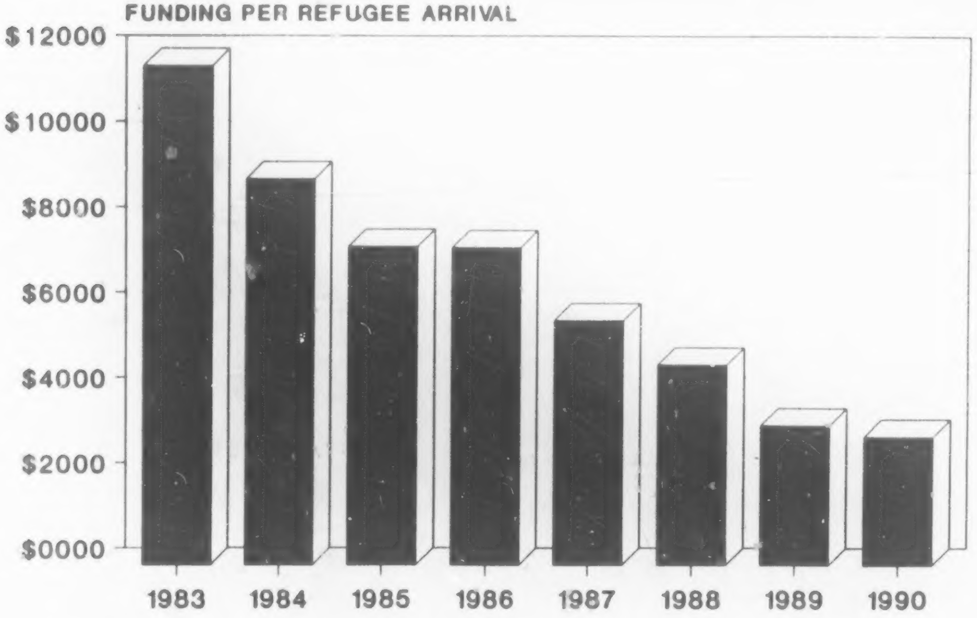
Meetings and Conferences

"Emerging Health Issues with Refugees" is the title of a conference to be held in Eau Claire, Wisconsin, on September 13-14, 1989. The conference is sponsored by the Wisconsin Refugee Health Program in cooperation with health agencies in Wisconsin and Minnesota. For information, call Tam Phan, at (608) 267-9000, or Ellen Rau, at (612) 347-5697.

Reader Exchange

The American Bar Association is seeking an experienced asylum attorney to coordinate a pro bono asylum project on the Texas border. Contact Carol Wolchok, ABA, 1800 M St., NW, Washington, DC 20036. (202) 331-2268.

FEDERAL REFUGEE ASSISTANCE FUNDING PER REFUGEE ARRIVAL



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July 28, 1989

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CONGRESS CONSIDERS PRESUMPTIVE REFUGEE STATUS ELIGIBILITY FOR CERTAIN SOVIETS, POLES, AND INDOCHINESE

Both houses of Congress have passed legislation saying that individuals belonging to certain groups--such as Soviet Jews and Evangelical Christians--have a strong likelihood of qualifying for admission to the United States as refugees because their groups have a history of persecution. Differences remain, however, with the House amending the refugee provisions of the Immigration and Nationality Act to include specific groups and the Senate leaving the designation of groups in the hands of the Attorney General. A House-Senate conference must resolve the differences before final passage.

The House bill--as amended and passed on July 17--would establish certain categories of nationals of the Soviet Union, Poland, Vietnam, Laos, and Cambodia as being "presumed to be subject to persecution."

The bill would allow such aliens to be treated "for purposes of admission as a refugee...as subject to persecution without the need to provide independent or additional evidence regarding persecution."

Rep. Bruce A. Morrison (D-Conn.) presented H.R. 2022 as a temporary measure that would "sunset" on September 30, 1990. It would also allow for certain Soviets and Indochinese who have been denied admission to the United States as refugees, and who have entered this country as parolees, to adjust to permanent resident status. That provision would affect between 5,000 and 10,000 people now in parole status.

INS Denials of Refugee Status to Soviet Jews and Evangelical Christians Spurs Bill Much of the floor debate centered on the treatment of Soviet Jews. Most who spoke in support of the bill pointed out that for many years Soviet Jews and other minorities in the Soviet Union were presumed to qualify as refugees as a matter of executive discretion. Then, in August 1988, the Reagan Administration decided to determine each applicant's eligibility for refugee status individually, based on interviews to establish if they have a well-founded fear of persecution.

Denial rates for Soviet Jews rose from 6.7 percent in December 1988 to 36.5 percent in March 1989. The denial rate for June was 21.3 percent. Those denied admission as refugees have been offered parole as a means of entering the United States.

Several members of Congress said that although denial rates had increased, the profile of individuals seeking refugee status had not changed. Many people are now being denied, they said, whose circumstances are the same as those of close relatives who earlier entered the United States as refugees.

Morrison said that "while seeming fair on the surface, [the new INS policy] has been disastrous."

He said that the policy has created divided families, huge backlogs, and a bottleneck in the admission of Soviet refugees to the United States.

"The fact of persecution, the inadequacies of parole, and the abrupt change in policy bring into question America's commitment to persecuted religious minorities," said Rep. Hamilton Fish (R-N.Y.). "Although many Soviets are now being allowed to leave, there is no guarantee that this current relaxation of emigration policy will continue."

Is Presumptive Eligibility Discriminatory? On the other hand, Rep. Lamar Smith (R-Tex.) argued that H.R. 2022 would give "preferential treatment in law" to certain groups, which, he said, would be "unprecedented and unfair."

Smith said that the bill discriminates against refugees from Africa and Latin America. "It says to them that U.S. refugee policy is political and Hispanics [or Americans of African descent] don't yet have enough political clout to force open the door for their brothers and sisters."

Morrison contended that H.R. 2022 does not violate the balance of the Refugee Act of 1980. "It merely implements within the ambit of the Act procedural efficiencies with respect to individuals about whom we have knowledge as a group."

Rep. Romano L. Mazzoli (D-Ky.), who was ousted earlier this year as chairman of the refugee subcommittee that Morrison now heads, disagreed. "The establishment of a presumption that certain people coming from certain areas and certain lands are automatically refugees is, I think, really a step backward." Mazzoli said it would return the United States to the pre-1980 position that gave preference to refugees fleeing communist lands. "The reason we passed the 1980 [Refugee] Act was to get away from nation-specific determinations of who was or was not a refugee."

Other Groups Added Mazzoli warned that the measure would "repoliticize the whole situation of who is or who is not a refugee" and that "it encourages and almost invites other groups similarly situated to apply for this kind of presumption."

The bill, which originally applied only to certain Soviets and Indochinese, was indeed amended to include other groups.

Rep. David E. Bonior (D-Mich.) rose to say, "If we do not specifically include Orthodox and Catholic Ukrainians in this bill, they may encounter the same problems currently facing Soviet Jews facing immigration to the United States."

Then, Rep. Stephen J. Solarz (D-N.Y.) introduced an amendment to specify in law 24 categories of Vietnamese, Laotians, and Cambodians--such as ethnic Chinese, Buddhist monks, and Catholics--as presumed to be persecuted. These groups are the categories listed by the Immigration and Naturalization Service as groups likely to be persecuted from the 1983 "Worldwide Guidelines for Overseas Refugee Processing."

Solarz said, "The purpose of this amendment is to put into law the very strong presumption that if one fits into one of these categories, which were devised by the INS itself, he or she is entitled to refugee status."

He added that in recent months there has been "a precipitous decline" in the number of Indochinese applicants approved for admission as refugees by the INS (see Recent Developments, page 7).

Smith entered the debate again, saying that he had warned in his opening statement that the bill could set off "an avalanche of legislation to grant special, preferential refugee and immigration status to select groups" that would "demolish the framework of the 1980 Refugee Act to handle refugee applications in a consistent and even-handed manner."

Smith said, "With the offering of this amendment, I think I hear the first rumblings of that avalanche."

He continued, "I would anticipate that

there would not be a single group in the special refugee categories that would not come forward with evidence of greater need and unconscionable administrative backlogs in the processing of applications for their group." He asked, "Is the House going to take over the administration of the Nation's refugee program?"

Rep. Barney Frank (D-Mass.) answered that "none of us think the ideal way to legislate is for Congress to deal category by category with groups of potential refugees. But it was a series of failures on the part of the administration and some unfortunate politicization that occurred which led us to this point."

After both the amendments for the various Indochinese groups and Catholic and Orthodox Ukrainians passed, another amendment was introduced by Rep. Gerald D. Kleczka (D-Wisc.) to include aliens who are or were nationals of Poland. "Soviet Jews, Vietnamese protestors, Polish Solidarity activists, they all have one thing in common," said Kleczka. "They spoke out against their oppressive Communist government at great risk to themselves and their families."

Rep. Jack Brooks (D-Tex.), chairman of the Judiciary Committee, said, "Let me say to my distinguished friends of Polish ancestry that some 200 years ago my ancestors fought with the Polish generals who came to this country, helped them win our freedom in the late 1700's. I think it is only fair that we give some of those brothers and sisters an opportunity to come here now and see no difficulty with that amendment."

The Polish amendment passed. The amended bill then passed by a 358-to-44 margin.

How Many? Smith concluded the debate by asking, "What is the cost of all these amendments? What is the cost of H.R. 2022? It is likely to be several billion dollars. Second, how many people are we talking about? How many immigrants? Again, we do not know, but we are probably talking about many hundreds of thousands of immigrants."

The Polish amendment would include any Pole currently in or outside of Poland who would register with a U.S. embassy for the overseas refugee processing program before the September 30, 1990 cut-off date.

At the head of the line would be about 35,000 Poles in Western Europe approved or waiting for INS interviews. Any of the 40,000 Poles in West Germany, 6,000 in Austria, and 5,000 in Italy--many of whom have been rejected for asylum by those countries--would also be eligible for the U.S. refugee resettlement program.

In addition, there are about 2.2 million Soviet Jews and more than 600,000 Evangelical Christians in the USSR. The U.S. embassy in Moscow estimates that as many as 100,000 could register in 1989 and 250,000 more in 1990. This does not include Soviet Jews and Christians currently in the Vienna/Rome refugee resettlement pipeline.

There are also 12 to 15 million Ukrainian Orthodox Christians and 6 to 9 million Ukrainian Catholics in the USSR, according to U.S. government estimates. Under the Morrison bill, any of them could also potentially register with the U.S. embassy in Moscow before September 30, 1990 and be eligible for refugee processing.

In addition, a government source pointed out that by giving presumptive eligibility to many categories of Indochinese, H.R. 2022 could move members of those groups with no connections to the United States to the head of the line. This, the government source suggested, could possibly come at the expense of other Indochinese refugees currently waiting in camps who have family connections in the United States, but who are not members of designated category groups.

Senate Gives Nod to Certain Soviets and Vietnamese Senate action on behalf of potential Soviet and Vietnamese refugees came in the form of an amendment to S. 1160, the State Department authorization bill.

Introduced by Frank R. Lautenberg (D-N.J.), the amendment was a compromise based on an earlier bill he had introduced (S. 893) that had been closer to the language of Morrison's bill. The compromise worked out with Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.) represented a more limited response than the House version.

Unlike the House bill, the Lautenberg amendment would not amend the Refugee Act by having Congress add the various category groups into the law. The Administration, rather, would be directed to develop "standard profiles" of groups "with a strong likelihood of qualifying for admission as refugees due to well-established histories of persecution," which would serve as a reference in refugee status determinations.

The Attorney General is directed to include Soviet nationals who are Jewish, Evangelical Christian, Ukrainian Catholic, and Ukrainian Orthodox, as well as Vietnamese in the Orderly Departure Program who have received Letters of Introduction, but who do not immediately qualify for immigrant visas.

Individuals belonging to these profile groups could qualify for refugee status by demonstrating any of a number of acts of mistreatment directed against them personally or by demonstrating "acts of persecution committed against other persons in his or her standard profile, in his or her geographical locale, or acts, regardless of locale, which give rise to a well-founded fear of persecution."

The amendment also provides an opportunity for Soviets and Vietnamese who entered the United States under parole after having been denied refugee status to adjust to permanent residence status.

Kennedy said that the Lautenberg bill would "buy time" for the Attorney General to improve the procedures for handling Vietnamese and Soviet refugee applications. He credited Attorney General Dick Thornburgh with implementing improvements in processing, saying that previously denied cases are being reviewed and overturned. He said that rejection rates, which had climbed to 35 percent, had fallen to about 20 percent.

The standard profiles would "ease the standard of proof for individual applicants as well as provide a factual background for adjudicating applications," Kennedy said.

Kennedy addressed concerns about the impact of such legislation on the Refugee Act. He recalled that the 1980 Act "moved us away from the blanket favoritism of one group over another in the refugee program, and brought our law into the international mainstream." He added, "This amendment is careful to provide the procedures which Soviets and Vietnamese need, while respecting the need for equal treatment for all refugees."

No one spoke in opposition to the Lautenberg amendment, which passed by a 97-to-0 vote.

Update

- Some 8,000 Cambodian refugees believed to have been in the Khmer Rouge-controlled Phum Thmei camp have arrived at Site K, an UNBRO-administered camp in southeastern Thailand, following reported shelling of Phum Thmei in early July by Vietnamese forces. Phum Thmei was reportedly hit by several hundred artillery rounds, according to the July 9 Bangkok Post.

Refugee workers, noting that the Khmer Rouge did not block the flight of the refugees to Site K, expressed hope that more refugees in Khmer Rouge-controlled areas might be able to leave. However, other reports suggest that the Khmer Rouge have moved refugees from internationally supervised camps, such as Bo Rai, to "hidden camps" along the border, to avoid their transfer to Site K, set up by the Thai authorities in May to improve international access to refugees who had been under Khmer Rouge control.

An estimated 50,000 Cambodians are living in the hidden Khmer Rouge camps, according to the July 3 Bangkok Nation. Western relief workers say some 23,000 refugees have "disappeared" from Khmer Rouge camps under international supervision to the hidden border during the past year, according to a July 6 report from Agence France Presse.

- Eight Cambodian refugees were killed during an artillery attack by Vietnamese on Site 8, a Khmer Rouge-controlled camp on the Thai-Cambodian border, between July 22-23, according to the July 25 New York Times.

- Immigration and Naturalization Service Commissioner Alan C. Nelson resigned his post as of June 26. His deputy, James L. Buck, has been named Acting Commissioner. The likely new nominee for the position will be Gene McNary, the chief executive of St. Louis County, Missouri.

The resignation of Harold Ezell, the controversial INS western regional commissioner, has also been accepted.

- A compromise legal immigration bill (S. 358) that would increase the number of professional and skilled immigrants admitted to the United States passed the Senate by an 81-to-17 margin on July 13.

The bill was initially opposed by Asian and Hispanic groups because they felt that, as originally drafted by Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.), it would have favored skilled, English-speaking Western European immigrants at the probable expense of family reunification for other nationalities. The bill was amended, however, to ensure that the number of immigrant visas for family members who are not immediate relatives would not fall below 216,000. Although there is a theoretical ceiling for family unity immigrants of 480,000, immediate relatives would continue to be admitted without restriction.

Another 150,000 places are reserved for "independent" immigrants, who qualify because of skills and education, including 54,000 who would be admitted according to a point system. Within the "independent" visas can also be found a "millionaires club" of 4,800 conditional entry visas for aliens investing $1 million and creating ten jobs. The Senate bill would allow at least 630,000 immigrants into the United States for each of the next three years.

Refugee admissions were not included as part of the immigration "ceiling."

The bill would prevent undocumented aliens from receiving federal benefits, but would allow close relatives of aliens newly legalized under the 1986 Immigration Reform and Control Act to stay and work in the United States, although their status would not be legalized.

Chinese nationals would be permitted to stay legally in the United States through June 1993, according to another amendment, unless the President certifies that conditions in China have improved sufficiently for their safe return.

The bill would also double the current 5,000 immigration ceiling from Hong Kong.

An amendment introduced by Simpson that would give preference to English-speakers was defeated by a 56-to-43 vote.

The bill now goes to the House, where hearings are expected later this year.

° The Immigration Reform and Control Act (IRCA) has resulted in 35 percent fewer apprehensions of undocumented aliens along the southern border than would have been anticipated without the law, according to a new report from the Urban Institute.

A total of 1.3 million undocumented aliens were apprehended between November 1986, when the bill became law, and September 1988--700,000 fewer than would have been caught had IRCA not become law, according to the study. The statistical method used to determine the impact of IRCA attempted to segregate the new law from other factors, such as Mexican population growth, economic conditions, and seasonal changes.

° On June 19, President Bush signed Presidential Determination 89-15, certifying that "an unforeseen refugee emergency exists" and increasing the worldwide refugee admissions ceiling for FY 89 from 94,000 to 116,500, in order to accommodate the admission of 22,500 additional refugees from Eastern Europe and the Soviet Union. The revised regional allocations are:

Africa	2,000
East Asia, First Asylum	28,000
East Asia, Orderly Departure	22,000
Eastern Europe/USSR	50,000
Latin America/Caribbean	3,500
Near East/South Asia	7,000
Unallocated Reserve	4,000

° On July 3, the Federal Register published final notice of available funds for grants under the FY 89 Targeted Assistance Grant (54 FR 27940). The targeted assistance program funds support services for counties with high concentrations of refugees. More than $34 million was appropriated in FY 89 for targeted assistance, of which $12 million has been awarded to local communities. The July 3 announcement concerns the remaining $22 million.

° On June 21, 1989, the Senate Immigration and Refugee Affairs subcommittee held a hearing on S. 458. The DeConcini/Moakley bill, as it is known, would provide temporary safe haven in the form of extended voluntary departure (EVD) for Salvadorans and Nicaraguans already in the United States. S. 458 is scheduled for a vote by the full Judiciary Committee on July 27.

H.R. 45, the companion House bill, was reported without recommendation to the House Judiciary Committee.

Recent Developments

GENEVA CONFERENCE URGES REPATRIATION OF VIETNAMESE BOAT PEOPLE

[This article was written by Iain Guest, a journalist who attended the Conference.]

The two-day International Conference on Indochinese Refugees ended in Geneva on June 14 with agreement on an ambitious plan of action aimed at curbing the exodus of asylum seekers from Vietnam, and promoting voluntary repatriation back to Vietnam.

The meeting was billed as the first "emergency" session on Indochinese refugees since governments met in Geneva in July 1979, and--like the 1979 meeting--it took place against a background of pirate attacks on refugees boats, increased arrivals, and pushbacks out to sea.

° For the first time since 1981, the number of boat people leaving Vietnam rose above 45,000 in 1988. Several brutal pirate attacks have been reported so far this year. On April 16, more than 100 refugees were murdered in one incident when pirates set fire to their boat and methodically rammed those who had jumped overboard.

° Malaysia reportedly instituted a policy in May of barring boat people from landing in that country. More than a dozen boats carrying nearly 900 people are said to have been pushed out to sea.

° More than 9,270 boat refugees arrived in Hong Kong in May alone. Almost all of them were from northern Vietnam, with few family ties to those in resettlement countries. The influx has placed enormous pressure on Hong Kong and badly rattled the nerves of the British government. The savage repression in China, which has raised the prospect of thousands of Chinese seeking asylum in Hong Kong, adds to the colony's tension. Hong Kong now bundles back illegal immigrants from China within 24 hours, irrespective of whether they claim a fear of persecution.

Faced with Increased Arrivals, ASEAN Nations Called for Conference The initiative for the Geneva meeting came from ASEAN governments and the British colony of Hong Kong, which had expressed concern at the increase in arrivals. Thailand pushed boats out to sea early last year in an apparent attempt to discourage new arrivals, while Hong Kong began "screening" asylum seekers on June 16, 1988 to determine who were "genuine" refugees.

The meeting ended by endorsing a "Comprehensive Plan of Action," drawn up over the previous ten months by officials from the office of the UN High Commissioner for Refugees (UNHCR) in conjunction with ASEAN governments. The plan contains six elements:

1. A commitment by Vietnam to "deter" the exodus through a program of information.
2. An increase in the Orderly Departure Program (ODP), which was launched following the 1979 conference. Some 23,000 Vietnamese left for the United States under the program in 1988.
3. A reaffirmation by governments not to turn asylum seekers away. Of the main countries of first asylum in Southeast Asia, only the Philippines has ratified the 1951 Convention on the Status of Refugees, which commits them not to forcibly repatriate (refoule) refugees. The fragility of this provision was underscored by reports following the conference that Malaysia was continuing its policy of pushbacks.
4. The establishment of a region-wide program of "status determination," or screening, under UNHCR supervision, to distinguish genuine refugees from economic migrants. Thailand and Malaysia followed the example of Hong Kong and introduced screening earlier this year.
5. The resettlement of so-called "long-stayers"--Vietnamese refugees who have languished for years in camps because they fail to meet criteria of resettling governments.
6. The repatriation of persons who are "screened out", or determined not to be refugees. Progress on repatriation will be reviewed by governments at an October meeting just prior to the Executive Committee meeting of the UNHCR. If no progress has been made, "alternative measures"--including compulsory repatriation--may have to be considered.

Vietnam Discusses Reeducation Camp Prisoners, Boat Refugees with United States In addition to a series of set speeches, several important bilateral meetings also took place. The delegations of Vietnam and the United States met briefly and agreed to resume talks on the fate of former inmates of "reeducation camps," many of whom were associated with the United States prior to the fall of Saigon in 1975. Nguyen Co Thach, Vietnam's Foreign Minister, said that 94,000 former prisoners have been released, and that only 120 remain in camps.

The two sides also discussed Cambodia. Thach told a press conference that the United States had asked Vietnam to pressure the government of Phnom Penh to be more conciliatory toward Prince Sihanouk in discussions about the future government once Vietnam withdraws. This, he said, was impossible as long as the United States was "giving arms" to the Prince's guerrillas.

British Press Vietnam to Allow Return of Boat People Denied Refugee Status in Hong Kong Thach also met with Britain's then-Foreign Secretary, Sir Geoffrey Howe. Worried by the sudden influx of Vietnamese boat people into Hong Kong, the British and Hong Kong authorities have insisted that those who are refused refugee status by the Colony should be returned to Vietnam, if necessary by force.

Sir Geoffrey told a press conference that he had pressed Thach to agree to this. Earlier, he warned the conference that Hong Kong might be forced to suspend asylum if the international community did not do more to ease the pressure. "Hong Kong would not take this step lightly. But it is fast approaching the point where there will be no other option," he said.

This put Britain sharply at odds with the Bush Administration, which has made it clear that forcible repatriation would be unacceptable both to the U.S. Congress and the American people--a point that was reiterated by Lawrence S. Eagelburger, U.S. Deputy Secretary of State.

Eagelburger also obliquely criticized the condition of holding centers in Hong Kong that have received unfavorable publicity: "Clearly, voluntary repatriation is both appropriate and feasible. But such return must be truly voluntary and not the result of intolerable conditions of detention."

There was considerable anticipation about how Thach would respond. In his statement, he reiterated Vietnam's position--no return unless it is voluntary. He also made it clear that Vietnam will make no major gestures to its neighbors until there is a renewal of Western aid: "The time has come to put an end to the policy of hostility and of economic blockade of Vietnam and broaden cooperation on the basis of mutual interest. This is how the problem of illegal emigration for economic reasons could be solved at its source." So far, 178 boat people have returned to Vietnam from Hong Kong.

During the meeting, Britain and Vietnam agreed to follow-up discussions on a regular basis, which the British presented as a major achievement.

Numerous press reports following the conference indicated that, in fact, Britain had agreed to step up economic aid, and that Vietnam had expressed general agreement with repatriations of all Vietnamese who are screened out by Hong Kong.

Many nongovernmental organizations remain concerned at the proposals for screening and repatriation. Since it introduced screening on June 16, Hong Kong has accepted less than 10 percent of those screened, and some worry that governments will continue to use screening and detention as a way of deterring any new arrivals.

If so, cautioned one observer, genuine refugees could find themselves awaiting return to Vietnam--whether they like it or not.

HOUSE REVIEWS VIETNAMESE REFUGEE POLICY

The House Subcommittee on Immigration, Refugees, and International Law held a hearing on June 28 to examine the impact of the International Conference on Indochinese Refugees held in Geneva in mid-June (see previous story) and to look again at the Orderly Departure Program (ODP) as an alternative to clandestine boat departures from Vietnam.

Robert L. Funseth, acting director of the Bureau for Refugee Programs at the State Department, testified that "the Orderly Departure Program did not become the truly viable alternative to clandestine departure its authors envisaged." Funseth said that more than 160,000 people have left Vietnam legally during the past decade through ODP (of whom more than 75,000 have resettled in the United States), but that hundreds of thousands have continued to flee Vietnam by boat during the same period.

Funseth summarized the Geneva conference's Comprehensive Plan of Action. He said that Amerasians, former re-education camp detainees, and others eligible for ODP would have full access to regular departure procedures as a result of agreements forged in Geneva.

"Although the conference in Geneva reached agreement on actions and procedures to be taken to encourage Vietnamese not to resort to dangerous boat departures," Funseth said, "agreement was not reached on how to handle cases of Vietnamese rescued at sea." Funseth said that the United States would like to see the automatic resettlement guarantees provided for boat people rescued at sea replaced by refugee determination screening.

Hope for Re-education Camp Detainees and Amerasians Funseth said that the United States was "gratified" to learn that the Vietnamese re-education camp population has been reduced from 7,000 persons in 1985 to about 200 at the present time. However, he said, "We remain profoundly disappointed that only 600 detainees and 2,400 of their family members...have been allowed to leave Vietnam."

Funseth announced that Vietnam agreed at the Geneva conference to resume talks on re-education camp detainees next month in Hanoi.

ODP files currently include applications from 18,000 detainees who have served five years or more in re-education camps. Together with their family members, they represent about 72,000 people wishing to leave through the ODP.

Funseth noted "considerable success" with the resettlement of Amerasian children. He said that more than 6,000 children fathered by Americans and 10,000 relatives have been resettled so far. (See Recent Developments, Projects and Programs.)

Funseth said that the United States expects to admit more than 10,000 Amerasians and their family members in FY 89, and that the budget request for FY 90 includes funding for another 13,000. He said that a transit center is now being built for Amerasians in Ho Chi Minh City.

Refugee Status Determination for the ODP

Since February, ODP applicants not qualifying for immigrant visas have been interviewed to determine whether they meet the refugee definition for admission to the United States. Since that time, 66 percent of those interviewed for refugee determination have been denied refugee status. This does not include Amerasians. Those denied refugee status have been approved for admission under the Attorney General's "public interest parole" authority. The overall rate of approval, as refugees or parolees, stands at 85 percent.

Delia Combs, assistant commissioner for Refugees, Asylum, and Parole at the Immigration and Naturalization Service (INS), said that the decision to adjudicate Soviet and Vietnamese applications according to a uniform standard, "equitably applied worldwide," was taken "at the highest levels of the previous Administration." (See lead story.)

Combs said that the United States currently does not have access to large numbers of people, such as former re-education camp prisoners, who do not have close family links to the United States. About 60,000 of the current immigrant visa petitions on file at the American embassy in Bangkok are seeking to emigrate through the ODP to join family members already in the United States. Termed "Category I," she said, this group "is first and foremost a category for family reunification under immigration-like procedures and requirements."

Rep. Chester Atkins (D-Mass.) criticized the new refugee adjudication process, saying, "I do not believe it was necessary or appropriate to scrap that program by administrative fiat." He said, "All Vietnamese interviewees should have presumptive refugee status." Atkins testified that since interviews take place within Vietnam and use government interpreters, the "atmosphere is not conducive to complete candor" about discussing their fears of persecution.

Saying that the situation in the Soviet Union was "vastly different," Atkins commented that the attempt to adopt worldwide adjudication standards there made sense, "but not necessarily in every instance."

Rep. Bruce A. Morrison (D-Conn.), who chaired the hearing, questioned Funseth and Combs to determine if the change in policy in February toward case-by-case determination of refugee status was a legitimate departure from National Security Directive 93 (NSDD-93), which, in 1983, had designated certain groups of Indochinese as "likely targets of persecution."

Combs said that NSDD-93 established categories of people who are likely targets of persecution, but not "a presumption" of persecution. "A person who is a likely target of persecution is not then automatically a refugee," she said.

Morrison asked, "If a person is established to be a likely target of persecution, what more does a person need to do to establish a well-founded fear of persecution?"

Combs said that "that person must establish that he or she has been persecuted."

"Oh, no! That's not the standard," said Morrison. He quoted the Refugee Act definition of a refugee as a person either who had suffered persecution in the past, or who has a well-founded fear of persecution. Morrison chided Combs, saying, "I am tired of INS representatives who come here and don't know the law."

Equitable Treatment Morrison asked Funseth why Vietnamese need this special treatment in contrast to Cambodians. Funseth said that the Geneva conference was addressing the particular issues arising from fleeing Vietnam.

"So the answer is, Vietnam is special because people leave by sea?" Morrison asked. Funseth said that was the case.

Morrison then asked, "Shouldn't we have the same concern for boat people from Haiti who have no ODP?"

Funseth said that Haitians were asylum seekers, not refugee applicants, and added that they were outside his area of responsibility.

Morrison said that the United States should consider designating Haitians as a population of "special humanitarian concern" for purposes of refugee admissions. "That would be consistent with the treatment of Vietnam."

CONGRESS STEPS UP PROTECTION FOR CHINESE STUDENTS

Both houses of Congress have signaled strong bipartisan assurances to Chinese students in the United States that they will not face return to their homeland against their will.

Legislative action also indicates that members of Congress feel the Administration did not go far enough in offering protection for Chinese currently in the United States. On June 6, Attorney General Dick Thornburgh, in response to an earlier announcement by President Bush, ordered the INS "to take all steps necessary to defer enforcing the departure" of all nationals of the People's Republic of China (PRC) who were in the United States on June 6.

Questions quickly arose about work authorization, adjustment of status, and the standing of the requirement of J-visa exchange students to return to their home country for two years upon expiration of their visas before being permitted to adjust their status to permanent residents (about 80 percent of the Chinese students are J-visa holders).

"Deferred Enforced Departure" (DED, or "deferred departure") by itself relates narrowly to the U.S. government not seeking to deport PRC nationals who are deportable or excludable, and allowing those under DED to work. PRC nationals now here on nonimmigrant visas could choose to abandon those visas in order to gain DED status and the work authorization it allows. But, by doing so, they are conceding that they are deportable whenever DED status expires. For those who retain their nonimmigrant status--so that they are not deportable and have opportunities to change their visa status--employment would continue to depend on whether it is permitted by the nonimmigrant visa they hold.

According to INS directives to its field offices, requests from PRC nationals for extensions or changes of nonimmigrant status are to be expedited, and requests from PRC students for permission to work off-campus "are to be given every consideration."

But many Chinese students expressed reservations about the limited protections offered by deferred departure. Haiching Zhao, a postdoctoral fellow at Harvard University, raised several concerns in testimony at a July 20 hearing before the House Subcommittee on Immigration, Refugees, and International Law. "The Administration's program leaves us in a state of limbo," he said. "With only one year's guaranteed protection, even if conditions in the PRC remain unsafe for our return, we would remain unsure of how long the protection would last."

Zhao said that despite the good intentions of the Administration, the format of deferred departure "could expose us to even greater harm upon our return and could pose a danger to our relatives living in the PRC" because it requires individuals to indicate an unwillingness to return to the PRC. "For the Chinese government," he said, "such a declaration will mark us as 'traitors' and 'counter-revolutionaries.'"

Senate Passes Chinese Safe Haven Measure

On July 11, the Senate unanimously passed an amendment to the Simpson-Kennedy immigration bill (see Update) allowing PRC nationals to remain until June 5, 1993, unless the President certifies to Congress that it is safe for them to return before that time. If the bill becomes law, the two-year foreign residency requirement for J-visa holders would be waived, and Chinese nationals with F "student", J "exchange visitor", or M "vocational student" visas, would be presumed to be in continuous lawful residence and permitted to work. After June 5, 1993, PRC nationals would be allowed to adjust to temporary resident status.

House Considers Chinese Safe Haven as Part of Broader Safe Haven Measure Since becoming chairman of the House refugee subcommittee, Rep. Bruce Morrison (D-Conn.) has been trying to fashion a legal structure for response to such emergency situations, and has added generic language for "temporary protected status" to another bill specific to Nicaraguans and Salvadorans (see Refugee Reports, Vol. X, No. 6). At the beginning of the July 20 hearing, which he chaired, Morrison said he was looking not only to protect Chinese students immediately, but to provide "a framework for the future" that could be applied to other nationalities as well.

Before the subcommittee was a bill (H.R. 2712) introduced by Rep. Nancy Pelosi (D-Calif.) with 240 cosponsors calling for a waiver of the return residence requirement for J-visa holders. Also under consideration was a measure drafted by Morrison (H.R. 2929) to protect Chinese nationals within his temporary protected status framework.

Morrison commented on the strong bipartisan show of support for the Chinese students. "This is the first time I've seen such a broad bipartisan group calling for more people to come to the United States," he said. He recalled that "too many of our debates on immigration have not had the generous and humanitarian tone we hear today."

New Math: DED=EVD Morrison said that the administration's deferred departure response left many questions unanswered, and several members of Congress questioned whether or not it was a legal status.

DED is not a legal status, as explained by Paul Virtue, acting general counsel for the INS, but rather "the exercise of prosecutorial discretion not to enforce certain provisions of the INA [the Immigration and Nationality Act]."

When pressed to explain how "deferred enforced departure" differed from "extended voluntary departure" (EVD)--a withholding of deportation granted periodically to certain nationalities at the discretion of the Attorney General--Virtue answered, "There is no distinction in practical effect with EVD."

Virtue said that the INS preferred the new nomenclature because "EVD was an unfortunate term" given its similarity to the term "voluntary departure" and because there is current litigation on EVD.

When asked how many people had taken advantage of deferred departure status, Virtue said that of the INS field offices that report by computer (55 percent), a total of 2,121 PRC nationals had been located who had been issued Orders to Show Cause for deportation or exclusion proceedings. Of that number, only 4 persons had come forward.

Virtue said that the INS estimates that there are currently about 40,200 Chinese students in the United States, of whom about 32,000 are on J visas, 8,000 on F visas, and about 200 on M visas.

Morrison and Pelosi Bills Reported to Judiciary Committee Without dissent, both the Pelosi and Morrison bills were reported to the Judiciary Committee. In combination, the effect of the two bills would be to: 1) waive the return requirement for J-visa holders; 2) accord temporary protected status and work authorization with enactment of the bill (unlike DED alone, which only works as a last resort after a person's visa has expired); 3) grant temporary protected status for a three-year period; and 4) suspension of temporary protected status would depend on certification by the President that it is safe for PRC nationals to return.

After the hearing, Zhao told Refugee Reports that he was very pleased with the outcome. "If this bill passes and is signed by President Bush," he said, "we are free."

I DO NOT WANT TO FOLLOW MY FATHER'S FOOTSTEPS

Yang Chao was one among the scores of Chinese students packing the House subcommittee hearing room. Every seat in the large hearing room was occupied, and standees were packed three and four people deep along the side walls.

A sophomore at Princeton University, Chao said he was "very, very pleased" with the outcome of the hearing. He also commented on witnessing the process of democracy in action. "At home you could never go into a room and listen to the government. You could never express your ideas directly to the Congress."

As for himself, Chang said, "If the situation changes, I will definitely go back. If the situation stays the same, the only safe way to return will be with a U.S. passport." He doubted many students would return without such protection.

"If there is no plan to punish returning students, why do they videotape our demonstrations?"

Chang is well aware of the dangers. His father, who he describes as having been a brilliant student, said that the Cultural Revolution was wrong. "For that one word, he was jailed for ten years," Chang said. "He was totally crushed down."

"I do not want to follow in my father's footsteps."

JEWEL S. LaFONTANT SWORN IN AS U.S. REFUGEE COORDINATOR

Opposing forced repatriation of refugees, visiting places where refugees are located to ensure their fair treatment, and strengthening corporate America's giving to refugee assistance were some of the key priorities Ambassador-at-Large Jewel S. LaFontant, the new U.S. coordinator for refugees, cited at her July 20 swearing-in.

LaFontant, who was selected by President Bush to succeed Jonathan Moore, was confirmed by the Senate on June 15. She is the first woman to hold the nation's top refugee post. While LaFontant noted U.S. opposition to forced returns of refugees, she also indicated that the United States has to be "open and honest" about the question of refugees vs. economic migrants.

"We can't translate someone into a refugee who isn't one," LaFontant told Refugee Reports.

Noting that federal assistance funds for refugees have been drying up, the new Coordinator--a senior partner in the Chicago law firm of Vedder, Price, Kaufman, Kammholz, and Day prior to her appointment--also said that the federal government must look to corporations in its search for refugee assistance sources.

LaFontant, who has served on the boards of several companies, said, "I plan to use my clout to bring Fortune 500 companies to help. I am shocked that they haven't done more." She added that stronger efforts must be made to "educate the private sector on the needs of refugees and the positive things they bring to our shores."

SERVICES TO REFUGEES WORLDWIDE THREATENED BY UNHCR FUNDING CRISIS

The Office of the United Nations High Commissioner for Refugees (UNHCR) is facing one of the worse funding crises in the organization's history. A shortfall of more than $150 million may lead to severe cuts in the services UNHCR provides to refugees around the world.

UNHCR is totally dependent on donations for its operations. The United States, Japan, West Germany, and other western governments provide most of its funding. This year's shortfall is not a result of donors giving less, but of UNHCR needing more funds to deal with new refugee emergencies and repatriation programs.

"UNHCR has only one option in the face of refugee needs," says Eugene Dewey, Deputy High Commissioner for Refugees. "We must respond." During 1988, 700,000 new refugees were added to the millions already receiving UNHCR assistance. That figure includes 350,000 Somalis who sought refuge in Ethiopia, another 210,000 Mozambicans in Malawi, and 70,000 more Afghans who fled to Pakistan. "Emergencies cannot be foreseen," adds Dewey, "but UNHCR must react positively and effectively to them."

The peace process now underway in Namibia enables more than 41,000 refugees to return home, but that positive development has also proven expensive. UNHCR launched a special appeal to finance the Namibian repatriation, and met with a generous response. But, says Dewey, when governments respond to a special appeal, they generally do so with funds that would otherwise have gone to UNHCR's regular programs, causing a shortfall in those.

Because of the present crisis, UNHCR will have to cut a number of services. Although what the organization terms "survival" services--food, water, health, and shelter--will not be affected, its "solution" services may be seriously cut back. Many of UNHCR's protection, education, and counseling programs will go. This means that many refugee children will go without even primary education, that all initiatives towards self-sufficiency will be abandoned, and that special protection and assistance needs for the most vulnerable groups, particularly women, will go unmet.

Dewey, who recently spent several days in the United States seeking added funds for UNHCR, told Refugee Reports: "The results of conflicts and the results of peace are happening to us all at once. Refugee flows continue, yet we can also foresee new possibilities for repatriation of refugees--Kampucheans, Angolans, Mozambicans--in the coming years. Therefore, the funding problem is not just now. It will continue into the next decade. UNHCR alone cannot bear the costs. The international community as a whole--including international organizations, NGOs [nongovernmental organizations], and governments--must face up to this situation. We must solve this together."

ONLY 10,500 AMERASIAN ADMISSIONS EXPECTED IN FY 1989, BUT 45 PERCENT DUE IN SEPTEMBER

The rate of Amerasian admissions thus far in FY 89 concerns U.S. resettlement agencies throughout the country. "The pace is a lot slower than we'd hoped for when we were planning the program a year ago," says Marta Brendan, National Contact Point for Amerasian Resettlement. "We're also disappointed--in terms of domestic resettlement needs--that 4,800 will be admitted in one month," she added.

In the first three quarters of FY 89, only 3,347 Amerasians and their families arrived in the United States. "During July and August, there will be about 1,000 admissions each month, and in September there will be 4,800 admissions," Brendan said. "That means that approximately 10,500 will have been admitted in FY 1989."

For agencies providing services to the arriving Amerasians and their families, the low number of admissions is a problem because they have only received funding for services specific to Amerasians for one year, and they expected those funds to serve a greater number of people.

In FY 1989, the Office of Refugee Resettlement (ORR) made funds available for services to Amerasians through InterAction. Grants of $35,000 could go to "cluster sites" chosen for Amerasian resettlement. So far, InterAction has awarded 24 grants totaling $840,000. Not knowing if funds will be available in FY 90--less yet FY 91--the agencies fear that Amerasians arriving after September 1989 will not benefit from the services that they have worked to make available.

"Our one-year funding has allowed a system for serving Amerasians to be put in place," says Michael Kocher, director of the Amerasian resettlement program at InterAction, "It would be a great shame if there were no additional funding for cluster sites next year, when even more Amerasians are expected than arrived this year."

Perspectives Differ on Whether Present

Admissions Rate is a Problem The rate of admissions to the United States is tied to the rate of departure from Vietnam. One of the reasons it is slow is that the rate of departures from Vietnam to the processing center in Bataan (the Philippines) is lower than originally expected. The Vietnamese government wants Vietnamese carriers to be used for the flights to the Philippines, but is unable to provide enough carriers to meet the need.

The Amerasian Homecoming Act called for all Amerasians and their families to leave Vietnam by March 1990. That clearly will not happen. At the present rate, the estimated 30,000 Amerasians/families remaining in Vietnam will not even be out of that country before the end of FY 90, according to Steve Goose, legislative aid to the Act's sponsor, Rep. Robert Mrazek (D-N.Y.).

Officials at the State Department do not appear to view the current rates of departures/admissions as a problem. "It's fair to say that there have been some severe transportation problems in the past," says Jim Williard, recently appointed division chief for Southeast Asian admissions in the Bureau for Refugee Programs (BRP). But, he adds, the Vietnamese government's agreement to allow Philippine carriers to transport Amerasians "relieved a part of the problem, and it's moving much more smoothly now." Ricki Gold, also at BRP, says that if all the Amerasians are not out by the end of FY 90, they can be brought out under the regular Orderly Departure Program.

Although the Amerasian Homecoming Act set out to remove ceilings on Amerasian admissions, according to Gold, "Amerasian admissions are limited by our budget." The BRP expects 15,000 Amerasian admissions in FY 90 and another 15,000 in FY 91. Gold says that 15,000 admissions are as many as the State Department can fund. She adds that in FY 89 Congress earmarked $15 million for Amerasian admissions, but that at a cost of $2,000 per person, even bringing in 10,500 by the end of FY 89 will have cost $21 million.

Gold also notes that "There are a lot more Amerasians [and families] than we originally thought there were. At the time of the Act, we estimated 30,000. Now we think there may be 40,000 to 50,000. If we get 30,000 out [of Vietnam] by the end of FY 90, that's what we set out to do."

September Bulge Worries Agencies The large number expected to arrive in the United States in September, 4,800, represents 45 percent of the total anticipated admissions for FY 89. Coming in the month during which resettlement agencies traditionally receive the largest number of refugees, the Amerasian "bulge" in September poses logistical problems for many agencies. Kocher says: "I hope that the fourth quarter bulge can be evened out, if not for this year, at least for the future." Kocher adds that he understands the difficulties in getting the Amerasians and their families out of Vietnam, but that "from a domestic resettlement perspective, the Amerasians would be better served if the flow was more even."

The bulge is not a product of the transportation problem. It has arisen because the State Department wanted to admit as many Amerasians/families as possible before September 30 in order to use available FY 89 numbers and funds. To accomplish this, says Gold, the State Department laid on special charters in March and April to get people to Bataan in time to complete their training and depart for the United States by September. That brought the number of departures to more than 2,000 per month. Since then, however, the special charters have been discontinued, and the departure rate has fallen significantly.

Projects and Programs

AGENCIES' COOPERATIVE EFFORT IS KEY IN PROJECT FOR AMERASIANS

When refugee resettlement agencies in the Washington, D.C. metropolitan area heard that their area was likely to be the largest cluster site for Amerasian "free cases" coming to the United States, they decided to work together to meet the special needs of the Amerasians and their families. The result of this cooperative effort is "Project Homecoming," a program to serve Amerasians that the agencies hope will pave the way for cooperation in serving other groups in the future.

Project Homecoming coordinator Joanie Chase, describing the project's history, told Refugee Reports that several of the resettlement agencies working in Maryland, the District of Columbia, and Northern Virginia had previous experience in working with Amerasian families. Realizing that funds would be limited and that the best way to help the Amerasians would be to pool their knowledge and resources, the agencies formed a consortium to develop a project to serve the more than 560 Amerasians and relatives who were expected to settle in the area.

Initially, the consortium had four member agencies: Associated Catholic Charities (USCC); International Rescue Committee (IRC); Lutheran Social Services (LIRS); and Travelers Aid/American Council for Nationalities Service (ACNS). Later, two more agencies, Christian Refugee Outreach/Church World Service (CWS) and World Relief Refugee Service (WR), joined the consortium.

Since the consortium was formed before details of federal funding were clear, the consortium sought state funds to get Project Homecoming underway. With a grant from the state of Maryland, the Consortium was able to hire a project coordinator and begin planning its services. According to Pauline Dunn, of the ACNS affiliate in Washington, "When it came time to write the proposal for the InterAction grant, there was a great deal of cooperation. Everyone benefited--particularly the Amerasians."

That cooperation, according to Michael Kocher, director of the Amerasian resettlement program at InterAction, is typical of what has happened at cluster sites throughout the country.

Counseling Program Targets Vulnerable Families Project Homecoming has two components, the counseling program and the volunteer program. Since the available funds do not permit an intensive program of services to all families, the project has been designed so that all Amerasians and their families benefit from some services, such as participation in the volunteer program, while those families identified as being particularly vulnerable receive more individualized attention through a ten-session, intensive counseling program called "Life Adjustment Skills Counseling."

Caseworkers from each of the consortium agencies receive combined training in the special problems and needs of Amerasians. According to LIRS resettlement coordinator Ruth Anne Dawson, "The families referred to the counseling program are generally those in which family members have low self-esteem or low motivation, where severe relationship problems exist, or where family members lack any formal education."

The first of the ten sessions is with the whole family, and its primary goal is trust-building. As Dawson told Refugee Reports, "Trust and confidence are the first things you have to get--and it's tough." The next three sessions are with the Amerasians themselves. The caseworker and the youth examine the youth's life in Vietnam and in the United States, examine positive experiences and frustrations, and

Chanh Tran, a sixteen-year-old Amerasian, with Project coordinator Joanie Chase. Chanh and his nineteen-year-old sister live on their own in Silver Spring, Maryland.
Photo: USCR/Hiram A. Ruiz

try to enhance the youth's self-esteem.

The next three sessions focus on the mother. The caseworker strives to understand the mother, her plans, fears, hopes, and disappointments, helps her build self-esteem, and reinforces with her the progress she has made. The final three sessions, with the family as a whole, help the family prepare for the problems they may face.

The Volunteer Program All Amerasians are referred to the volunteer program, whether they are involved in the counseling program or not. The volunteer program itself has several components, including the big brother/big sister program, group tutoring, social activities, and volunteer support program.

The big brother/big sister program, despite its name, does not target the Amerasian youth, but--like the counseling program--the family as a whole. The volunteer may work particularly closely with the Amerasian member of the family, but might also focus on the mother or a sibling, depending on the family's need.

When the families are newly arrived, the volunteers help them get oriented in the local community, showing them where to shop, how to use the metro, and what to do in case of an emergency. Later, they concentrate on helping the family with their English. Chase says that "though the families often refer to the volunteers as 'our teacher,' in time, that changes to 'our friend.'"

The volunteers in the group tutoring program receive training in teaching English and hold regular sessions with various families at one time. Other volunteers help to organize social activities for the families.

Volunteers pledge to work with the family for up to three hours a week for a year. According to Chase, this helps the family and the volunteer to develop a relationship, and to provide the family with continuity during their first year in the United States. Chase is particularly pleased that of the 50 volunteers currently involved in the big brother/big sister and group tutoring programs, 40 percent are Asian (mostly Vietnamese). The project is currently concentrating on recruiting more volunteers.

For further information on Project Homecoming, contact Joanie Chase, Project Coordinator, Project Homecoming, 1504 St. Camillus Drive, Silver Spring, MD 20903. (301) 434-5980.

At a picnic sponsored by the Univ. of Maryland Vietnamese Association, volunteer Laura Sanders talks with De Thi Ngoc Le (right) and her Amerasian daughter Loan, 19.

Photo: USCR/Hiram A. Ruiz

INDOCHINESE REFUGEE CAMP POPULATION BY ETHNIC GROUP, AS OF APRIL 1989

COUNTRY	CAMP	LAO	HIGHLAND	KHMER	VIETNAMESE	TOTAL
HONG KONG	Argyle St. Camp 3	0	0	0	1,323	1,323
	Cape Collinson	0	0	0	680	680
	Chi Ma Wan	0	0	0	3,098	3,098
	Erskine	0	0	0	1,276	1,276
	Green Island	0	0	0	826	826
	Hei Ling Chau	0	0	0	2,930	2,930
	Other	0	0	0	534	534
	Whitehead	0	0	0	3,957	3,957
	Kai Tak North	0	0	0	2,330	2,330
	Pillar Point	0	0	0	1,709	1,709
	San Yick	0	0	0	2,553	2,553
	Sham Sui Po	0	0	0	4,923	4,923
	Tuen Mun	0	0	0	2,830	2,830
	VBP Detention Center	0	0	0	166	166
	Victoria Remand Cen.	0	0	0	48	48
	SUBTOTAL	0	0	0	29,183	29,183
INDONESIA	Galang-1st. Asylum	0	0	0	2,124	2,124
	Medevacs	0	0	0	2	2
	Quarantine	0	0	0	423	423
	Tanjung Pinang	0	0	0	8	8
	SUBTOTAL	0	0	0	2,557	2,557
MALAYSIA	Marang	0	0	0	1,093	1,093
	Pulau Bidong	0	0	0	13,790	13,790
	Sungei Besi	0	0	0	5,870	5,870
	SUBTOTAL	0	0	0	20,753	20,753
PHILIPPINES	Bataan ODP	0	0	0	10,072	10,072
	Bataan RPC	453	427	183	6,509	7,572
	Palawan	0	0	0	5,433	5,433
	PRTC	0	0	0	511	511
	SUBTOTAL	453	427	183	22,525	23,588
THAILAND*	Phanat Nikhom RPC	780	5,691	165	0	6,636
	Ban Nam Yao	0	1,729	0	0	1,729
	Ban Thad	0	0	0	6,830	6,830
	Ban Vinai	188	34,303	0	0	34,491
	Bangkok Transit	15	13	20	45	93
	Chiang Kham	77	15,001	0	0	15,078
	Kapcherng	0	0	1,164	0	1,164
	Khao-I-Dang	0	0	12,989	0	12,989
	Napho	15,796	428	0	0	16,224
	Phanat Processing	857	604	1,299	5,124	7,884
	Phanat Transit	36	6	36	1,606	1,684
	SUBTOTAL	17,749	57,775	15,673	13,605	104,802
GRAND TOTAL**		18,202	58,202	15,856	90,062	182,322

Source: U.S. State Department, Bureau for Refugee Programs
* Thailand numbers do not include more than 300,000 Cambodian "displaced persons" on the Thai-Cambodian border.
** Grand total includes: 446 Vietnamese refugees in Japan; 236 in Korea; 430 in Macao; and, 327 in Singapore.

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August 31, 1989

"WE ASKED FOR DEMOCRACY AND GOT ONLY BULLETS": STUDENTS AND MINORITIES ON THE THAI-BURMA BORDER*

[In the first three weeks of July, Refugee Reports staff writer Court Robinson was on the Thailand-Burma border, where thousands of Burmese students and ethnic minorities have been forced to flee continued persecution by the military government in Rangoon. Although their plight in many ways parallels that of other Indochinese refugees in the region--and that of students in China--little is known about their situation. The report below, based on Robinson's visit, is excerpted from an upcoming USCR issue brief on the subject.]

Following last year's pitiless crackdown by the army on pro-democracy activists in Burma, thousands of high school and college students fled to remote border areas, seeking sanctuary and common cause with the many ethnic minority groups engaged in their own struggle against the central government in Rangoon. The largest number of Burmese students, nearly 7,500 at one point, went east to the Thai border, where they found help from the Karen, Mon, Karenni, and Pa-O minority groups. Perhaps 1,000 more crossed into Thailand, where the welcome was decidedly colder.

After flirting briefly with a policy to grant temporary asylum, Thai authorities instead opted first for a repatriation program, followed by a declaration that, as of March 31, 1989, all Burmese students in Thailand would be treated as illegal immigrants, subject to arrest and deportation.

Unable to cope with endemic malaria and other rigors of jungle life, many of the students on the border returned home or are hiding in Thailand. The student population on the border now stands at about 3,000, living in ten separate camps stretched along 700 miles of rugged mountainous terrain.

But despite the industry and high morale evident in the camps, the Burmese students express a growing sense of urgency and frustration. Pressed on one side

IN THIS ISSUE:

The crackdown on Chinese students has been very much in the news. But earlier, another student democracy movement was crushed in Burma; we look at the refugee aftermath of that repression.....1

- Update

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*Burma has just recently changed its name to the Union of Myanma, but in this article, we are using the more commonly known term.

Students at Thay Baw Bo camp assemble to greet visitors. Conditions are spartan, food and medical supplies are insufficient, and the risk of Burmese army attack is ever-present. On July 1, the students opened a "jungle university" here, with classes in political science, animal husbandry, Thai and English language, and health.
Photo credit: USCR/Court Robinson

by Burmese army offensives, blocked on the other by an indifferent, and often hostile, Thai government, the students and their ethnic minority allies find their calls for help too often go unanswered.

Some aid is being provided, but it meets only about half the subsistence needs for food and medicine; asylum is precarious in Thailand and hard to come by anywhere else in the world; and arrest and persecution continue of student dissidents and minority groups in Burma.

"We asked for democracy and got only bullets," said one student. "Now we ask who is on our side for freedom. We worry that time will run out and the people will be crushed again."

Army Coup, Crackdown Sends Thousands to the Borders Last year, on July 23, Gen. Ne Win resigned after 26 years of authoritarian rule. Simmering discontent had bubbled over in student-led demonstrations earlier in the year, with at least 40 people killed and dozens more injured or arrested by riot police.

On August 8, 1988, more than 100,000 people flouted the newly imposed martial law and took peacefully to the streets of Rangoon, calling for sweeping political and economic reform. They were answered with gunfire. The Burmese army cracked down on the nationwide demonstrations, killing between 1,000 and 3,000 people and arresting scores of others.

On September 18, Gen. Saw Maung, a protege of Ne Win, seized power in a military coup, and the killings and arrests began anew. Foreign diplomats put the September death toll at over 1,000, and estimates by student groups marked it much higher.

Flight from the cities began immediately after the coup. On September 20, Thai newspapers reported the arrival of 250 Burmese students in the border towns of Ranong and Mae Sot. That same day, Thai Foreign Minister Sitthi Savetsila, describing the students as "war refugees," said they would be granted temporary asylum in Thailand. "We cannot send them back right now because they would be killed," he said.

Within days, the Thai government appeared to back off from its asylum position, as the Burmese population in Ranong grew to 500. On September 22, a spokesman for the Foreign Ministry told reporters that the Thai government did not consider the Burmese to be refugees, but "temporarily displaced persons." The spokesman said that an offer of assistance from the UN High Commissioner for Refugees (UNHCR) had been rejected. Aid would instead be channelled through the Thai Red Cross.

Three days later, Ranong Governor Chalerm Yoopamorn announced that 107 Burmese had been detained for illegal entry and would be returned. On October 8, Thai authorities rounded up 135 Burmese students who had sought sanctuary in a Buddhist monastery near Mae Sot and trucked them across the border to the Karen military camp of Thay Baw Bo.

By mid-October, Burmese students on the border numbered nearly 7,500. Another 1,000 had taken refuge on the India border, and an estimated 2,000 had fled to the China border.

On October 17, the Burmese government announced it was opening 27 "reception centers" along Burma's borders and offered an amnesty to all students who returned home by November 18. Following the return of between 500 and 1,000 people in November, the government ultimately extended the deadline to January 31.

Amnesty International reported that some of the returning students allegedly "were either taken into custody and executed by army units or were shot and killed by soldiers who ambushed them in the forest." On November 19, nine students were arrested in the Burmese town of Kawthaung (also called Victoria Point) opposite Ranong. They were taken to a military camp where, allegedly, four were beheaded. The other five somehow managed to escape.

Thailand Presses Repatriation In December, the governments of Burma and Thailand agreed to establish a repatriation center at a military airfield outside the Thai city of Tak.

The reaction of the students was skeptical. "Some people may come in because of the lack of food and medicine in the jungle," Htun Aung Kyaw told the Bangkok Post, "but most will stay on despite the hardship."

Chairman of the All Burma Students Democratic Front (ABSDF), Htun Aung Kyaw said, "Gen. Chaowalit may have good intentions, but I doubt he knows the real situation in Burma. How will he feel when he learns that the people he sent back have been shot or hung?"

On January 18, the Burmese government invited 46 journalists for a three-day tour of Burma and a meeting with about 150 student returnees and their parents.

Interviewed in the presence of military officers and government officials, most of the students said they had not been mistreated since their return. But in private, according to the Far Eastern Economic Review, some said they had been forced to come back and feared for their safety. One handed a journalist a note that read: "We do think that if we give things as they really are, then just on the way back or afterwards we may be seized and beaten."

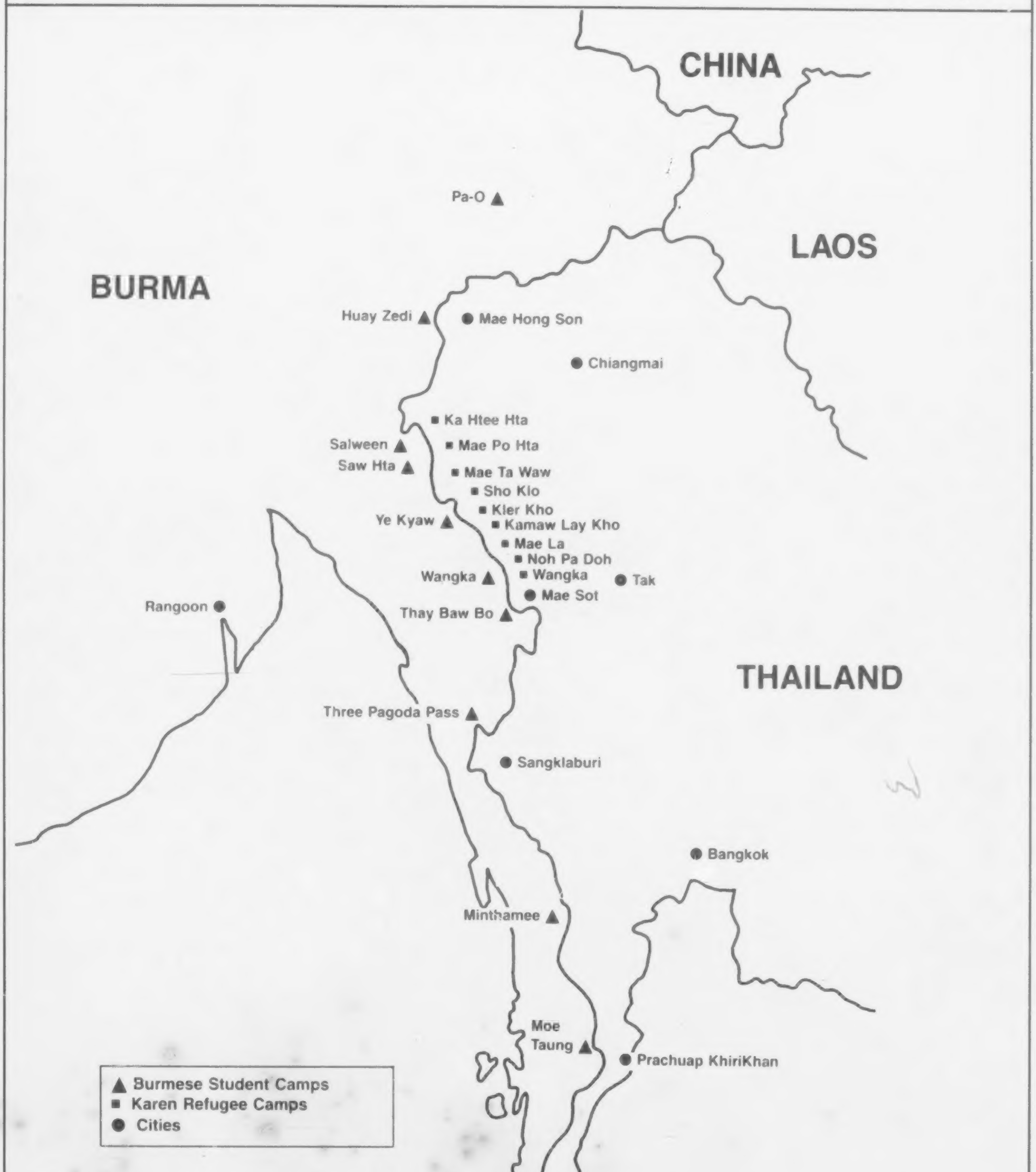
Despite statements of concern from UNHCR, the International Committee of the Red Cross, and the State Department, the repatriation program continued. By late January, more than 300 students had been repatriated from Tak. Most of them, said Thant Myint U, relief coordinator for Emergency Relief Burma, had been arrested in the nearby town of Mae Sot and brought to Tak rather than being sent across the border to the student camps.

Forced repatriations were also being carried out from Ranong. Estimates provided by ABSDF suggest that, between October and January, perhaps 200 students were sent back to Victoria Point.

While most students were not handed over directly to Burmese authorities, the practice was still dangerous since, Thant said, "there is an army garrison stationed in Victoria Point, and student presence in town would immediately be known if a boat docked."

Ko Thet, a 25-year-old student of

Sites of Burmese Refugee and Displaced Persons Camps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LAOS
BURMA
Huay Zedi
Mae Hong Son
Chiangmai
Ka Htee Hta
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Mae Po Hta
Saw Hta
Mae Ta Waw
Sho Klo
Kler Kho
Ye Kyaw
Kamaw Lay Kho
Mae La
Noh Pa Doh
Wangka
Wangka
Tak
Mae Sot
Rangoon
Thay Baw Bo
THAILAND
Three Pagoda Pass
Sangklaburi
Bangkok
Minthamee
Moe Taung
Prachuap KhiriKhan
Burmese Student Camps
Karen Refugee Camps
Cities
Victoria Point
Ranong

Burmese literature at Rangoon University, crossed into Ranong in September and lived there for three months, hiding in a warehouse, begging, and catching fish to survive. He was arrested with a group of four students and detained for ten days. "Then they put me on a fishing boat back toward Kawthaung," he told USCR, "but I begged for mercy and came back to Thailand."

Ko Thet was arrested for a second time along with 60 other Burmese. "I was kicked in the head by Thai security. I'm a hemophiliac and couldn't stop bleeding. Many of us were mistreated and used for hard labor." He was sent back again, and again appealed for help from the Thai fishermen. "They were very sympathetic," he said, "and brought me back to Thailand."

Tak Closes But Pushbacks Continue International pressure, coupled with protests from Thai student organizations and religious groups, contributed to a slowdown in the rate of repatriations from Tak.

On March 31, Thai authorities announced that all Burmese students remaining in Thailand would be considered illegal immigrants, subject to arrest and deportation. That same day, direct air repatriations out of Tak ended.

Since then, however, repatriations to border camps have taken place on a much larger scale. On April 6, 117 students were pushed back at gunpoint at Three Pagoda Pass. Many were seriously ill with malaria. Late in April another 97 students living in the Mae Sot area were repatriated to Three Pagoda Pass.

Although the student camps are in minority-controlled territory and not in what is often called "Burma proper," there are many risks in being sent across the border. Aside from inadequate food, shelter, and medical supplies--malaria has claimed the lives of perhaps 100 students in the last year--there is the constant danger of attack by the Burmese army. Since the beginning of the year, six student camps have been attacked by Burmese offensives. Five have been overrun, their populations sent scattering along the border and into Thailand.

"We would like the Thai government to permit the students temporary evacuation when the camps are attacked," said Dr. Thaung Htun, ABSDF secretary for foreign affairs. "When the Burmese army retreats

BURMESE REFUGEES AND DISPLACED PERSONS

STUDENTS:	
Thailand Border:	
Moe Thaung	216
Minthamee	288
Three Pagoda Pass	400
Thay Baw Bo	450
Wangka	364
Ye Kyaw	229
Saw Hta	176
Salween	425
Huay Zedi	257
Pa-O	180
Subtotal:	2,985
Inside Thailand:	1,000
China Border:	2,000
India Border:	1,000
KAREN:	
Inside Thailand:	
Wangka	3,021
Noh Pa Doh	1,465
Mae La	2,636
Kamaw Lay Kho	1,818
Kler Kho	1,696
Sho Klo	6,476
Mae Ta Waw	2,212
Mae Po Hta	326
Ka Htee Hta	393
Subtotal	20,043
Internally Displaced:	32,323
MON:	
Internally Displaced:	
Three Pagoda Pass (Mon Student Camp)	1,300
Mon Territory	6,412
KARENNI:	
Inside Thailand:	2,000
Internally Displaced:	4,000

and the situation is safe again, we will go back."

Thai authorities have permitted ABSDF to operate a small clinic in Mae Sot, which treats an average of 40 or 50 students per day, mostly for malaria. But in most cases, Burmese students who cross the Thai border, even if they are fleeing for their lives, must go into hiding or risk being sent back.

On May 13, for example, Burmese troops shelled Salween camp, forcing its 200 residents and the 175 residents of nearby Saw Hta camp to cross the river into Thailand. Fearful of approaching the local authorities, the groups lived in the jungle for about two weeks. Many became ill, and two people died, before the students felt it was safe to return to the Burmese side.

Cross-Border Aid Pulls Together From January to April, the student population on the border dropped from about 4,500 to about 3,000, as people found their own way home, were repatriated through Tak and Ranong, or slipped deeper into Thailand. Despite the reduced numbers, aid groups based in Thailand remained concerned at the erratic assistance that was being provided. In May, armed with about $50,000 in initial pledges from international sources, several non-governmental relief groups organized the Burma Coordinating Group (BCG).

The ABSDF is responsible for monitoring distribution of food and medical supplies and identifying needs for the next month.

ABSDF leaders say that while the need for more food and medicine continues, BCG aid has helped to promote communication and better cooperation among the camps, and to provide incentives for setting priorities and managing resources.

But despite the welcome improvements that BCG has brought to the cross-border assistance effort, both the students and relief officials acknowledge that large questions loom just ahead: With current BCG funds exhausted in August, where will new contributions come from, and will they be sufficient to maintain even the present, inadequate level of aid? How much longer will the Thai government permit cross-border aid to continue, given its desire to maintain cordial relations with Rangoon? And what can be done to serve the equally needy refugee and displaced person populations now mostly beyond the reach of BCG assistance?

A Karen schoolgirl in Minthamee township. Almost one quarter of the children at her school had lost at least one parent in the 40-year war the Karen have waged with Rangoon.
Photo credit: USCR/Court Robinson

Tens of Thousands of Minorities Displaced by Burmese Army Persecution A British health worker in the Karen village of Minthamee told USCR, "It is too bad that so many people walk right through here to the student camp, then walk right through on their way back out again." To stop and listen is to hear the story of the Karen's

40-year struggle for autonomy, minority rights, and an end to military oppression.

Minthamee is deep in Karen territory and has never been attacked by the Burmese army. But from villages closer to the center of the country emerge accounts of longstanding and widespread abuse. "They come into town, they say you are rebels, and they destroy," said one man, echoing the stories told by countless others. Men are killed or hauled off to serve as porters for the army, women are beaten and raped, children are orphaned, crops are seized and houses burned to the ground.

Burmese Students in Thailand Are Also Vulnerable All of the Burmese groups--students on the border, minorities displaced in Burma or encamped in Thailand--have special vulnerabilities but each can find some strength in numbers and organizational unity. The estimated 1,000 Burmese students in Thailand are not only scattered in a dozen towns and cities throughout the country, but are generally lacking a common focus or source of support.

Their options are stark and few. "They are on their own," said Thant, "and face the choice of either living in the jungle to face possible army attack, malaria and terrible living conditions or finding their way to Bangkok, risking arrest and detention and trying to survive without money or knowledge of the Thai language."

A UNHCR official told USCR that about 40 or 50 students had come into the agency's Bangkok offices in the last six months. In some cases, students have been given "mandate refugee status" in the form of a letter which states that the bearer has presented credible evidence of a well-founded fear of persecution in his or her country. The official said it was unclear whether the UNHCR letter had carried any weight with Thai authorities.

In February, three Burmese students in Thailand sought help at the U.S. Embassy in Bangkok, according to Thant, but were sent to UNHCR. In March and April, "We were told, in effect, that the United States did not have any policy for Burmese in Thailand," Thant said.

Since that time, the Embassy has developed a policy of sorts. In early August, a U.S. refugee official told USCR that Burmese students have been issued "one or two" nonimmigrant visas and "only in extraordinary cases," parole. In July and August, the Immigration and Naturalization Service approved three Burmese cases for parole.

"At this point," the official said, "the U.S. envisions no refugee program for Burmese," but indicated that UNHCR has asked for consultations on the issue.

Aid and Asylum Remain the Most Urgent Needs Although the future of cross-border aid remains very uncertain, there are some encouraging signs. Several relief agencies in Thailand, previously not involved on the border, have expressed interest in providing humanitarian support. U.S. officials confirm they are discussing possible options for assistance. And each house of Congress has passed an amendment to foreign affairs legislation to authorize humanitarian assistance to Burmese on both sides of the border.

Meanwhile, even if Thai policy continues to treat Burmese students as illegal immigrants, there is little question that they cannot go home safely. On May 18, the Burmese government's State Law and Order Restoration Council announced that all returning students are subject to long prison terms. Those who continue political activities after their return will be sentenced to death.

An unclassified cable from the U.S. Embassy in Rangoon in August said, "Although unconfirmed accounts of torture of political prisoners have been widely circulated for weeks, we now have credible, first-hand reports that torture, beatings, and mistreatment are commonplace and that in some instances death has resulted. These reports relate accounts of cigarette burns, beatings resulting in severe eye and ear injuries, and electric shocks to the genitals."

The cable also said that the Burmese army continues to seize people around the country for porter duty. The cable recounted one incident "in which about 500 men, whom the eyewitness judged from appearance to be of the educated class, but older than students, were crowded into a central area before being taken away for porter duty in Kachin State. The men were tied together, some naked, others in their underwear, and were taunted by soldiers shouting, 'You were yelling for democracy last year. Why aren't you yelling now?'"

Update

- On July 31, representatives from the United States and the Socialist Republic of Vietnam announced that they had signed a draft agreement to permit the legal emigration of released reeducation camp prisoners and their close family members. The two sides expressed hope that a first group of 3,000 people would depart Vietnam before the end of 1989.

The resettlement program for reeducation camp prisoners would be in addition to the existing Amerasian and orderly departure programs, according to the State Department press announcement.

The U.S. delegation was led by Senior Deputy Assistant Secretary of State Robert L. Funseth. The Vietnamese delegation was led by Assistant Minister of Foreign Affairs Vu Khoan.

In a separate statement, Funseth urged Vietnam to issue more exit permits to people eligible for U.S. immigrant visas. He said that Vietnam has an annual quota of 20,000 immigrant visas, but this year only about 8,000 of those visas will be used.

- A final review of more than 10,000 Cambodians in Khao I Dang who previously had been denied resettlement in the United States was completed on May 31. According to the International Rescue Committee (IRC), which serves as Joint Voluntary Agency (JVA) in Thailand, all 11,319 previously denied Cambodians were re-interviewed by JVA staff. Of these, the Ethnic Affairs Office in the Department of State recommended that 3,036 should be re-presented to the Immigration and Naturalization Service (INS). INS overturned the denials of 1,923, or about 24 percent, of rejected Cambodians, sustained 724 of the original denials, and deferred 61.

INS and the Department of State had reached an agreement in August 1988 to take a last look at the denied Cambodian caseload in Khao I Dang, following persistent criticism from refugee advocacy and human rights groups that many of the original denials had been the result of inconsistent and sometimes arbitrary processing guidelines used by the Ethnic Affairs Office and INS.

"While the results may not please everyone," said Bob DeVecchi, IRC executive director, "they do represent, in my view, the fruits of hard labor, collaborative efforts and a genuine desire on the part of all concerned to do a thorough and professional job."

- In July, Thai authorities rounded up more than 1,400 lowland Lao living in Thailand and sent them to the Nong Saeng detention center outside of Nakhorn Phanom to be screened for refugee status. International refugee officials say that most of the Lao had been involved in some capacity with resistance efforts directed against the socialist government in Vientiane.

Many of the Lao originally had lived in Na Pho or other refugee camps in Thailand but, some time during the last 14 years, moved out into nearby towns and villages to engage in "irregular activities," a UN official said. He estimated that the round-up ultimately could encompass up to 10,000 people in all. "I think the government will start with the lowland Lao resistance first, and then do the highland Lao," he said.

Observers suggest that a deal was struck last April between the Thai and Lao military to the effect that, as a gesture to improve bilateral relations, Thailand would rein in Laotian resistance activity.

Virtually all of those recently rounded up would likely be screened in as refugees and transferred to Na Pho, where they would be eligible to seek resettlement in another country, the official predicted. He did have two concerns about the group, however.

"These are people who voluntarily have opted out of the refugee process and settled in Thailand," he said. "They are not asylum seekers and should not be forced to become so."

Second, the official worried that the presence of large numbers of resistance supporters in Nong Saeng and Na Pho could have a disruptive influence on the voluntary repatriation effort. Of the 14,600 residents of Na Pho, about 500 have signed up to return to Laos and 100 new cases are registering every month, the official said.

Since March, about 150 people, mostly lowland Lao, have returned home voluntarily each month, according to the UN High Commissioner for Refugees.

° Rioting broke out during the weekend of August 26 on Tai Ah Chau Island, where the Hong Kong government has impounded more than 5,000 boat people, according to the August 31 Washington Post.

Using iron bars and makeshift weapons, up to 2,000 Vietnamese reportedly attacked police who distribute food rations, injuring at least 23. While police regained control, the Post said that police and refugee workers called the violence inevitable, "given the squalid conditions on Tai Ah Chau and the frustration of many of the Vietnamese--who have spent their life savings to flee to the West, only to find themselves in virtual captivity in Hong Kong."

The Post said the Hong Kong government confirmed three cases of cholera among the Vietnamese.

"They are being confined in intolerable conditions that encourage violence," Chris Bale, director of Oxfam Hong Kong, told the Post. "All of that creates a powder-keg situation, and we simply have not got the uniformed personnel to control it."

° Rev. Peter Pond, a tireless advocate on behalf of Cambodian refugees, was shot and wounded in the leg on June 23 as he tried to intervene on behalf of Cambodian refugees at Site 8, a Khmer Rouge-controlled camp.

° On July 28, the House Judiciary Committee approved the Moakley/DeConcini bill, H.R. 45, by a vote of 20 to 14. H.R. 45, the Central American Temporary Relief Act of 1989, would temporarily suspend the detention and deportation of Salvadorans and Nicaraguans from the United States (see Refugee Reports, Vol. X, No. 6). The bill is now pending before the House Rules Committee, and floor action is expected in September. In 1987, the House approved a safe haven bill for Salvadorans and Nicaraguans by a 237-181 margin.

On the Senate side, the DeConcini bill, S. 458, is scheduled for the full Judiciary Committee on September 21.

° Perry Rivkind has resigned as INS district director in Miami. Rivkind came to national prominence in May 1986 when he announced unilaterally that he would not deport Nicaraguans from his district because he believed they might be subjected to persecution upon return.

° Nine Contra leaders applied for political asylum in the United States shortly after Central American presidents signed the Tela Agreement, calling for the demobilization of the Contra forces in Honduras. The Tela Agreement calls for the demobilization of the Contras by December 5 and their repatriation to Nicaragua or relocation to unspecified third countries.

Three of the asylum requests were granted immediately by the INS, and the remaining were being processed "as quickly as possible," the August 11 Washington Post cited INS figures as saying.

° Settlement was reached June 30 on a class action suit brought on behalf of Haitian detainees at the Krome facility in Florida who had been transferred in May to remote locations in Texas and Louisiana. Under the terms of the agreement, the INS agreed to transfer the detainees back to Miami. About 200 Haitians were affected by the lawsuit. Cheryl Little, attorney for the Haitian Refugee Center, which brought the suit, said, "It appears that they will be sending more people out to Texas and Louisiana to make room for those they are returning to Krome."

° Rudolf Kuznetsov, the head of the Soviet visa agency, predicted that 200,000 Soviets would emigrate this year and that another two million would travel outside the country, as a result of an easing of travel restrictions.

The August 23 Washington Post reported a press conference in which Kuznetsov said that a draft law liberalizing Soviet travel is likely to be submitted to the Soviet legislature next month. Would-be emigres would still be required to receive invitations from friends, relatives, or prospective employers, according to the Post.

Projects and Programs

REFUGEES SPEAK FOR THEMSELVES THROUGH "REFUGEE VOICES"

Since February, radio listeners around the country have been able to hear refugees tell, in their own words, about the situations that caused them to flee their homes and about what it is like to be a refugee in the United States. The radio presentations are a service of Refugee Voices, A Ministry with Uprooted Peoples, a nonprofit agency established in 1987 to help educate the American public about refugees.

Refugee Voices records 3-4 minute programs that are distributed to approximately 300 radio stations in 49 states. Each program features a refugee talking about his or her personal experiences, as well as a commentary on a particular refugee situation somewhere in the world. The majority of the stations that broadcast the programs are noncommercial FM stations, including religious, country, jazz, and contemporary music stations. It is estimated that the broadcasts are reaching an audience of up to 8 million listeners.

According to Father Francis X. Moan, S.J., the agency's founder and director, the idea for Refugee Voices came about after an opinion poll taken in the early 1980s showed that while most respondents were opposed to the idea of allowing more refugees to come to the United States, when presented with the stories of individual refugees, most respondents indicated a willingness to admit the particular refugee whose story they had heard.

Father Moan decided that the best way to educate the public about refugees--and to combat what he saw as a growing xenophobia in the United States--was for Americans to hear refugees' stories first-hand. So far, dozens of refugees--both in the United States and in refugee camps in other countries--have made recordings for Refugee Voices. Some are well-known, like Hang Ngor, star of The Killing Fields, but most are ordinary people with equally compelling stories to tell.

Besides its radio programs, the agency produces printed material to make refugee voices heard. A regular newsletter, Revelations, as well as postcards and a calendar, are available from Refugee Voices, 713 Monroe Street, NE, Washington, DC 20017 (202) 832-0020.

AMERICAN FAMILIES OPENING HOMES TO CENTRAL AMERICAN TEENAGE ASYLUM SEEKERS

Victor was one of the child soldiers taken into the Guatemalan military. His American "mother" describes him as a "gentle giant" who fled, saying that he feared becoming an animal if he stayed any longer.

"He is a sweet, wonderful boy," said Becky Noyes, who has opened her Minnesota home to him and to several other young Central American asylum seekers, "but he tells horrible stories of the Guatemalan military. What he describes is torture, not military training."

Victor is one of thousands of children--mostly teenage boys--who have been set adrift by warfare in Central America.

Many who have fled north have found themselves apprehended and detained by the Immigration and Naturalization Service (INS) on the Texas border. Since a stepped up detention and deportation policy went into effect earlier this year (see Refugee Reports, Vol. X, Nos. 1, 2, and 5), the INS has opened three emergency shelters for unaccompanied minors in south Texas that hold about 160 children. The shelters, run by a nonprofit agency, International Educational Services, have generally been filled to capacity.

"Although we try to create a homey environment," said Jesse Villarreal, director of programs for IES, "it is better for children to be in a home environment."

The first choice is to reunite children with their own families in the United States. Of the children who have been placed in the emergency shelters, 76 percent have been reunified with family members. Another 18 percent have been placed in foster care or with sponsor families.

Foster care "in the Valley" is used primarily for the youngest children and for those with behavior problems who IES believes require closer attention. "They can still be supervised by our staff, we pick up the doctor bill, and pay the foster parents per diem," Villarreal said.

Central American Minors Need American Sponsors But, for most of the other children without family in the United States, placement with "sponsor families" is the next best choice.

The Border Association for Refugees from Central America (BARCA) and Proyecto Libertad are trying to line up sponsor families around the United States who would be willing to share their homes with Central American children without families

Four teenagers encountered in a south Texas shelter, each from a different country in Central America. "Here, we are all one country," they said.
USCR/B. Frelick

or whose families have not been located.

In addition to providing a home environment, being located outside the lower Rio Grande Valley also gives the youths better chances for fuller hearings and more individualized legal assistance before they face hearings before immigration courts in other parts of the country, according to Diane Paulsell, paralegal for minors with Proyecto Libertad in Harlingen, Texas. Proyecto provides free legal assistance to children in two of the south Texas shelters; BARCA, for the third.

Kathleen Grace, children's advocate for BARCA, said that she is looking for sponsors who are open and flexible to provide shelter on a temporary basis. She said that most of the youths BARCA have placed have been 16- and 17-year-old boys who have a pretty clear idea of what they want to do. "Most want to work, to get a job. Education is not a goal for most of them."

Grace said that the teenagers do better in urban environments with Spanish-speaking families or, at least, in places where there are Spanish speakers. She said that some problems have developed "where sponsors are interested in training them to be middle class, U.S. citizens."

Paulsell said, "Ideally, we are looking for Central American families, but we haven't been able to find any." Although they are minors, "some are too old to be someone's kid," she said.

None of the agencies places the children directly--that is in the hands of the INS. But the agencies play a valuable role in recruiting sponsors, screening them, and in talking with the kids to orient them about what to expect and to assess their suitability for placement.

It has been a cooperative effort in which all the players generally give each other high marks. Even the INS comes in for praise. "At first I thought of the INS as an agency out to get people," said Villarreal. "But I haven't worked with a better group of people in a long time than the INS people in the Valley. I have been very pleased with how they respond to the needs of the children."

His praise of the other private agencies is equally high. "Proyecto has provided legal assistance that our kids wouldn't get otherwise, and BARCA has really gotten the word out on sponsors. We couldn't do it without them."

Sponsorship Provides a Temporary Haven, but an Uncertain Future Looms Ahead Once the children are placed with a sponsor family, IES has no further responsibility for them. Part of the temporary feel of the arrangement comes, says Grace, because the youths are still, technically, in the custody of the INS. The sponsor signs a paper saying he or she will provide food, clothing, shelter, and education and that the sponsor will take the minor to all immigration proceedings.

"The majority will be deported at the end of the hearings," said Grace. "Those are the percentages."

Becky Noyes agrees that the prospects often seem dim. "The toughest thing is their uncertain future," she says. "Victor has a good asylum claim, but the approval rate for Guatemalans is one percent. He is at risk and he knows it."

Yet Victor has adjusted very well to life in northern Minnesota. He is on the high school football team, has lots of American friends, and now speaks English.

Noyes' perspective on the needs of unaccompanied Central American teenagers differs to some degree from the agency personnel in Texas, who stress the temporary nature of placement and allowing the youths a fairly high degree of independence. She says, "These kids need moms and dads. Sometimes they give the illusion of being young adults, military veterans, but they are fundamentally still teenagers. They need guidance and love just like any kids do."

Noyes has also hosted several other boys, including a 13-year-old orphan from Honduras and an 18-year-old Nicaraguan who stayed for a month and half before locating his family in Miami and moving there. "He still calls us every other week," Noyes said. The Noyes also have a 15-year-old adopted son from El Salvador.

Noyes said that most of the boys initially experience a honeymoon period of near ecstasy, "not believing they are really out of detention, in a home." Later, she said, isolation sinks in, language difficulties, and homesickness.

Most experience profound culture shock. For boys who have been hungry much of their lives, the sight of an American kitchen filled with food can be overwhelming. Noyes tells of times when a boy will sit down and eat a half gallon of ice cream in a single sitting.

"They think everyone must be rich," she said. Having little concept of costs in the United States, Noyes and her husband include their teenage charges in discussions on the family budget.

Victor does odd jobs around the neighborhood. But, according to Noyes, he sends every penny home. "He is still close to his family, and misses them. But he is terrified that he might be sent back."

Anyone interested in sponsoring a Central American child should contact BARCA, P.O. Box 715, Edinburg, TX. (512) 631-7447.

Reader Exchange

° The National Immigration, Refugee & Citizenship Forum is seeking an executive director. Candidates should have experience in immigration and refugee issues, strong organizational management experience and communication skills. Send resume and letter by October 4 to Mark Handelman, National Forum Chairman, c/o NYANA, 730 Broadway, New York, NY 10003.

Resources

THE NEW ASYLUM SEEKERS

The changing face of asylum seekers in the 1980s was the subject of a colloquium at the University of Virginia Law School in 1986. A collection of papers presented at that meeting is now in print.

The volume, edited by David A. Martin, includes essays from some of the leading international figures on asylum policies in Europe and the United States.

Essays by Joan Fitzpatrick Hartman, Guy S. Goodwin Gill, and Kay Hailbronner focus on the applicability of humanitarian law incorporated in the Geneva Conventions to the situations of today's asylum seekers. The first two authors argue that humanitarian law does apply. Goodwin-Gill concentrates on the principle of nonrefoulement--the forced repatriation of a refugee--, which, he argues, "must now be understood as applying beyond the narrow confines of articles 1 and 33 of the 1951 Refugee Convention." He contends that international customary law extends the principle of nonrefoulement "to include displaced persons who do not enjoy the protection of their government of their country of origin."

Hailbronner, on the other hand, argues

that state practice, as shown by the asylum laws of Western Europe, the United States, and Canada, "does not support nonrefoulement of all humanitarian refugees as a norm of customary international law." He says that "nonrefoulement as customary international law is more properly viewed as the product of wishful thinking."

Fitzpatrick Hartman counters that argument by finding, "If we turn to actual practice by states receiving an influx of civilians fleeing directly from internal armed conflict, we find an extremely high degree of compliance with the ban on forced, involuntary repatriation." But what of civilians fleeing civil wars who do not cross directly into countries, such as the United States, where they seek asylum? She says, "there is nothing in the logic of the norm, the realities of the refuge-seekers' situation, or in state practice that would reasonably give rise to the conclusion that states of second or third refuge are free to return civilians to the site of internal armed conflict simply because those civilians may have transited other states on their path of flight."

Fitzpatrick Hartman asks, "Is the United States in breach of the norm for forcibly repatriating large numbers of Salvadorans?" Her own answer to the question is yes, "The United States is indeed in objective breach."

Former INS Official Assesses Unfulfilled Promise of the Refugee Act Doris Meissner rounds out the book with a particularly candid look at the U.S. government's implementation of the Refugee Act of 1980. Meissner, who at the time of the Colloquium was the executive associate commissioner of the Immigration and Naturalization Service (INS) (she is now with the Carnegie Endowment for International Peace), notes failures both in the overseas refugee admissions component of the Refugee Act, as well as on asylum.

Refugee resettlement has failed, according to Meissner, because the solution--the humanitarian response of resettlement--adds to the problem by stimulating increases in refugee flows. "Over time," Meissner argues, "a refugee flow loses much of its refugee character and becomes a migration stream. By this point, many of those on the move are seeking admission to the United States to join family members and find opportunity--the classic profile of an immigration rather than a refugee group." To continue to admit such persons and call them refugees, she says, is improper, and leads to waning public support for admitting people with "thin" refugee claims.

On the asylum side, Meissner notes the influence foreign policy and immigration considerations have had on approval rates. "The INS's emphasis on rapid case processing and illegal immigration, combined with a lack of incentive for the State Department to dig into the difficult but critical issues of economic versus political flight, resulted in extremely low approval rates--about two percent--at the very time when public awareness of and revulsion over the death squad activity in El Salvador reached a peak."

The then-INS official said, "Had the norms and factual circumstances that were developed during the same period to guide decisions for overseas processing of Southeast Asian cases, for example, been applied to the Salvadoran caseload, I believe the pattern of approvals and denials would have been considerably different. Because such an effort was not made, the interested public and careful observers have rendered harsh judgment on the government's good faith and its willingness to administer a judicious political asylum policy."

The New Asylum Seekers: Refugee Law in the 1980's is available for $75. It can be ordered from Kluwer Academic Publishers, 101 Philip Drive, Norwell, MA 02061. (617) 871-6600.

AILA REVISES ASYLUM MANUAL

A manual for assisting asylum claimants in the United States has been updated and reissued by the American Immigration Lawyers Association.

The Law of Asylum in the United States: A Manual for Practitioners and Adjudicators explains the legal basis for asylum and discusses due process rights for asylum applicants. Particular attention is paid in the 1989 edition to the term "persecution" as interpreted in the refugee determination process.

The 81-page softbound manual, written principally by Deborah E. Anker, is available to AILA members for $19.95 and to nonmembers for $24.95 by writing AILA Publications, 1000 16th St., NW, Suite 604, Washington, DC 20036. (202) 331-0046.

ABA REPORTS ON SOUTH TEXAS SITUATION

Restrictive detention practices by the Immigration and Naturalization Service (INS), lack of adequate legal representation, and linguistic barriers combine to deny refugees the opportunity to apply for asylum in the United States, according to a report issued July 24 by the American Bar Association, based on a site visit to the Harlingen INS district in south Texas by a team of ABA lawyers.

To increase the availability of pro bono legal assistance in Harlingen, the ABA, along with the State Bar of Texas and AILA, are recruiting volunteer attorneys, law students, and legal assistants nationwide to provide free legal representation to detained asylum applicants.

"Lives on the Line: Seeking Asylum in South Texas" is available free of charge by contacting Carol Wolchok at the ABA, 1800 M St., NW, Washington, DC 20036. (202) 331-2268. For more information on the south Texas pro bono project, contact Wolchok or Robert Lang, ProBAR, 306 E. Jackson St., 3rd floor, Harlingen, TX 78550. (512) 425-9231.

DETAINED, DENIED, DEPORTED

Helsinki Watch has recently issued a comprehensive study of U.S. asylum policy, tracing the history and asylum and refugee protection in the United States, the law, domestic and international, as well as current U.S. policies and practices.

The report, Detained, Denied, Deported: Asylum Seekers in the United States, charges that U.S. asylum policies "not only make a mockery of the spirit of national and international refugee law but also directly violate the Refugee Act and the UN Refugee Convention." Specifically, the report charges that U.S. policies that prevent refugees from coming to the country, applying for asylum, or appealing negative decisions violate the statutory right to apply for asylum.

The report, written by Karen Konig, calls for terminating the Haitian interdiction program and for restricting detention to undocumented aliens who either constitute a threat to society or are likely to abscond. Helsinki Watch further calls for special training for INS adjudicators on country conditions and fair interviewing techniques. The report recommends eliminating political bias from the U.S. asylum adjudication process by involving independent organizations in providing information on human rights conditions to asylum adjudicators.

The 87-page report is available for $7. To order, write or call Helsinki Watch, 485 Fifth Avenue, New York, NY 10017. (212) 972-8400.

OTHER RECENT TITLES FROM HELSINKI WATCH...

Helsinki Watch has recently published other monographs concerning a number of countries that produce or host refugee populations.

Prison Conditions in Turkey, Prison Conditions in Poland, and Prison Conditions in Czechoslovakia are three in a series of reports on prison conditions by Human Rights Watch. The most recent report on Turkey documents cramped and dirty cells, contamination of food, and denial of medical care. The reports would be of particular value in assisting asylum seekers to document their claims. All are available from Helsinki Watch at the address listed in the previous resource.

REPORTS ON HUMAN RIGHTS IN LATIN AMERICA

During the past year, America's Watch has released a number of new reports on human rights in Latin America. The reports focus on Cuba, Ecuador, El Salvador, Guatemala, Nicaragua, Panama, Paraguay, and Peru.

Most of the reports include material on repatriated refugees and displaced persons. The report on El Salvador details the campaign against international relief workers working with returnees and the blocking of relief supplies to repopulated villages. The Cuba report addresses the consequences for those who seek political asylum abroad but are returned to Cuba and for the relatives in Cuba of those who seek asylum abroad. Human rights issues concerning both the displaced population and former exiles are discussed in the report on Guatemala.

The reports are available from Americas Watch, 36 W. 44th Street, New York, NY 10036. (212) 840-9460. Prices range from $6-$10.

LAWYERS COMMITTEE CRITICIZES HONG KONG'S SCREENING AND DETENTION OF BOAT PEOPLE

A report released in June by the Lawyers Committee for Human Rights finds that Hong Kong's screening and detaining of Vietnamese boat people in order to deter future arrivals "violates...their fundamental human rights."

Inhumane Deterrence calls the screening process instituted by the Hong Kong government in June "unfair and improperly restrictive." According to the report, "screening is conducted with improper criteria that, for example, do not consider current country conditions or past treatment. From June 1988 through March of 1989, only three out of 1,327 Vietnamese cases processed have been recognized as meeting refugee status under international law."

The report recommends that "a special task force of well-trained, professional adjudicators should be assembled by Hong Kong to perform refugee status determinations. outside the ambit of immigration authorities."

According to the report, "Those not recognized as refugees are subject to arbitrary prolonged detention under harsh conditions. Incarceration is indefinite and based solely on the inability to return the individuals to Vietnam voluntarily. There is no suggestion that any of the individuals pose a danger to the community of Hong Kong."

The report recommends that "the detention policy be ended immediately," if necessary, through a "legal challenge." Instead, the report suggests that a "policy of asylum should be instituted in its place. If the prospect of resettlement has been a lure to Vietnamese boat people, then consideration should be given to further limiting resettlement in favor of a policy of protection and integration into the community."

Copies of the report are available from the Lawyers Committee for Human Rights, 330 Seventh Avenue, 10th Floor, New York, NY 10001, for $8.

REFUGEE ASSISTANCE EXAMINED WORLDWIDE

The 40-year history of the UN High Commissioner for Refugees (UNHCR) is recounted in A Future Preserved: International Assistance to Refugees, by Yefime Zarjevski.

In addition to discussing the basic principles that underlie the UNHCR, Zarjevski surveys refugee movements and UNHCR involvement region-by-region for the period under study.

The 280-page book includes maps and appendices with excerpts from the relevant international legal instruments for refugee protection.

A Future Preserved is available for $65 from the Pergamon Press, Headington Hill Hall, Oxford, U.K. OX3 0BW.

"Each time a person stands up for an ideal, or acts to improve the lot of others...he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance."

Robert F. Kennedy

We at the U.S. Committee for Refugees are grateful for the privilege of working with humanitarians like the late Congressman Mickey Leland and those who died with him in August on a mission of mercy for Sudanese refugees. We will miss our colleagues.

FY 89 REFUGEE ARRIVALS BY STATE*
As of June 1989

STATE	YTD FY 89	STATE	YTD FY89
ALABAMA	65	NEW JERSEY	1,170
ALASKA	13	NEW MEXICO	112
ARIZONA	533	NEW YORK	11,509
ARKANSAS	86	NORTH CAROLINA	307
CALIFORNIA	21,545	NORTH DAKOTA	74
COLORADO	625	OHIO	630
CONNECTICUT	681	OKLAHOMA	172
DELAWARE	42	OREGON	930
DISTRICT OF COLUMBIA	326	PENNSYLVANIA	1,981
FLORIDA	2,955	RHODE ISLAND	329
GEORGIA	696	SOUTH CAROLINA	42
HAWAII	155	SOUTH DAKOTA	78
IDAHO	159	TENNESSEE	400
ILLINOIS	2,901	TEXAS	2,199
INDIANA	124	UTAH	316
IOWA	429	VERMONT	84
KANSAS	291	VIRGINIA	834
KENTUCKY	131	WASHINGTON	2,151
LOUISIANA	243	WEST VIRGINIA	8
MAINE	108	WISCONSIN	1,249
MARYLAND	1,151	WYOMING	22
MASSACHUSETTS	2,760	AMERICAN SAMOA	0
MICHIGAN	829	GUAM	0
MINNESOTA	1,925	JOHNSON ATOLL	0
MISSISSIPPI	64	NO. MARIANNA ISLANDS	0
MISSOURI	529	MIDWAY ISLANDS	0
MONTANA	44	PUERTO RICO	2
NEBRASKA	226	TRUST TERRITORIES	0
NEVADA	158	VIRGIN ISLANDS	0
NEW HAMPSHIRE	129	WAKE ISLANDS	0
		UNKNOWN	13
		TOTAL YTD FY 89	64,535

* This report is based on documents from the Refugee (formerly ACVA) Data Center, ICM, and other federal agencies available on the above date and may not include information on all refugees in the categories reported.
Source: Office of Refugee Resettlement.

REFUGEE REPORTS is published monthly for $35.00 per year for one subscription, $25.00 each for two or more subscriptions to the same addressee, or $25.00 each for ten or more subscriptions requested at the same time, mailed to separate addresses; overseas postage is an additional $24.00 for second class or an additional $75.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: send address changes to *Refugee Reports*, Sunbelt Fulfillment Services, P.O. Box 41094, Nashville, TN 37204.

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September 22, 1989

U.S. SET TO JUDGE ALL SOVIET REFUGEE CLAIMS IN MOSCOW, 50,000 PLACES FOR SOVIET REFUGEE ADMISSIONS REQUESTED

"The Russians Are Coming, The Russians Are Coming" could have been the subtitle for the FY 1990 consultations between Congress and the Administration, as discussion about the numbers of Soviets to be admitted as refugees and the method for processing and funding their admission to the United States dominated all other subjects.

In the midst of consultations on the number of refugees to be admitted to the United States in FY 90, the Administration unveiled its plan to terminate the Rome-Vienna pipeline of Soviet emigration and to begin all refugee processing out of the U.S. embassy in Moscow. In addition to both the House and Senate consultations on refugee numbers, an additional joint hearing of the House Subcommittees on Europe and the Middle East and Immigration, Refugees, and International Law reviewed the Administration plan.

The Administration requested 50,000 refugee places for the Soviet Union, compared to estimated actual admissions of less than 37,000 Soviets this year. Less than 800 Soviet refugees were admitted as recently as FY 86.

The Administration's request for a worldwide refugee admissions ceiling of 125,000 exceeds by nearly 20,000 the estimated refugee admissions for the current year, and is almost 49,000 higher than the FY 88 level of about 76,000 refugees. This year, the Administration expects to admit 106,600 refugees. The last time the United States admitted more than 100,000 refugees in a single year was in FY 81, during the peak of the Southeast Asian refugee flow.

However, funding of FY 90 admissions remains a sticking point. The budget submitted earlier in the year anticipated 84,000 refugee places. Although 14,000 of the requested FY 90 admissions numbers are unfunded (10,000 of the 50,000 Soviet admissions places, and 4,000 "unallocated reserve") and are anticipated to be met through private sector funding, another 27,000 admissions numbers that would likely require federal funding have not been included in the Administration's budget. The State Department estimates the cost to close the funding gap to be $58

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million. And this does not account for domestic resettlement costs, which appear to fall increasingly on state and local governments.

Soviet Refugees to be Processed from within the USSR Deputy Secretary of State Lawrence S. Eagleburger told the Senate Subcommittee on Immigration and Refugee Affairs that the system of processing Soviet refugees through Vienna and Rome is costly and cumbersome. Estimating the cost of care and maintenance of refugees in Rome in FY 89 alone at $34 million, Eagleburger said, "It is important that we institute a policy which ensures that no one leaves the Soviet Union in the future with false expectations as to the U.S. immigration laws and resettlement commitments."

Starting October 1, he said, Soviets seeking admission to the United States will be required to apply at the U.S. embassy in Moscow. After that date, emigres leaving the USSR with Israeli visas "will be assumed to have left the Soviet Union with the intention of emigrating to Israel; they will not be eligible to apply in a third country for refugee admission to the United States."

This is a major departure from current practice, under which some 90 percent of the Soviet Jewish emigres leaving with Israeli visas change destination from Israel to the United States after arriving in Vienna.

Eagleburger estimated a backlog that "may be well over 30,000...already in the pipeline as of October 1." He said that these people would be adjudicated according to current procedures and that they would be the first beneficiaries of the 50,000 admissions numbers for FY 90.

In other testimony, the General Accounting Office reported that the number of refugee applicants backlogged at the U.S. embassy in Moscow had reached an estimated 41,600 by the end of August. Another 30,000 are estimated to be ready to apply in Moscow, but not yet permitted to do so.

Under questioning, Ambassador Princeton N. Lyman, director of the Bureau for Refugee Programs at the Department of State, estimated that it would take about nine or ten months to work through the current Moscow backlog, assuming 4,000 cases could be processed per month. "Their waiting time could be substantially longer," Lyman conceded, even after they have been approved as eligible refugees because of the limit on refugee numbers that can be admitted.

"It is our assessment," said Lyman, "that the backlog in Vienna and Rome and the people who are already pending in Moscow will use up most if not all" of the the 50,000 admissions places for FY 90.

"In reality, for FY 90, we are saying no new applications," said Rep. Howard L. Berman (D-Cal.). "The only proper thing for the Administration to do is to hang a sign on the door in Moscow that says, 'For 1990, Soviet refugees need not apply.'"

In a sense, that's what the United States is doing. Said Lyman, "We want the people in Moscow to know where they fall in the priorities, what the time frame is, to know where they stand so they do not need to leave their jobs" before applying to leave.

The Administration plan would avoid any further build up of Soviet Jewish emigres who have been denied refugee status--now numbering about 5,000--in Ladispoli, a suburb of Rome, where they are waiting and weighing their alternatives.

A Soviet emigre denied refugee status in Rome has already left the USSR. Although denied refugee status for admission under the U.S. refugee program, such persons have the option of entering the United States under the Attorney General's parole authority (but without refugee benefits) or of immigrating to Israel (most left the USSR with Israeli visas). After saying that Soviet emigres denied refugee status in Rome can "go to Israel," the newly appointed U.S. Coordinator for Refugee Affairs, Ambassador Jewel S. LaFontant, made perhaps the most controversial single remark of the consultations, when she added, "Of course, they can always return to Russia. In these days of glasnost, that's not an inpossible thing."

LaFontant later said the statement was taken out of context, and that the option of return to the Soviet Union was meant as a hypothetical response and not suggested as an alternative favored by the U.S. government.

But, LaFontant did testify that sanctions against Soviet citizens seeking to emigrate "have almost disappeared." She said that they are no longer deprived of jobs or housing before being issued a U.S. visa.

Under the plan for processing all appli-

FY 89 AND PROPOSED FY 90 REFUGEE ADMISSIONS

	FY 89 AUTHORIZED LEVELS	FY 89 ESTIMATED ARRIVALS	FY 90 PROPOSED CEILING
Africa	2,000	1,700	3,000
East Asia			
First Asylum	28,000	28,000	25,000
Orderly Departure Program*	22,000	20,000	26,500
Eastern Europe and the Soviet Union	50,000	45,000	56,500**
Latin America and the Caribbean	3,500	3,300	3,500
Near East and South Asia	7,000	7,000	6,500
TOTALS	112,500	105,950	121,000
Unallocated Numbers*** (Private Sector)	4,000	1,600	4,000
TOTAL	116,500	106,600	125,000

* *Includes Amerasian immigrants*

** *Includes 10,000 privately funded admissions.*

*** *Of the 125,000 admissions places proposed, 121,000 are allocated by region. In addition, the proposed ceiling includes an unfunded, unallocated reserve of 4,000 numbers, the use of which is contingent upon the availability of private funding.*

---

cations out of Moscow, the prospect of people left in limbo in third countries would be obviated. According to the GAO, almost 90 percent of the Soviets submitting refugee applications in Moscow have not applied to Soviet authorities for exit permission. The Moscow plan would allow them to ascertain their chances before requesting an exit permit.

If a refugee admissions space is not forthcoming--and from the way the backlog is shaping up, it doesn't look very promising for new applicants in FY 90--the person would not have burned his bridges behind him, as have the refuseniks of the past.

Chairman of the House Subcommittee on Immigration, Refugees, and International Law, Bruce A. Morrison (D-Conn.) observed that while it may be more humane to tell a person who has no chance that he has no chance, it would be even more humane to actually give him a real chance.

Congress Scrutinizes Moscow Plan Morrison and other Congressmen subjected the Administration witnesses to detailed questioning about the Moscow processing plan. They discovered considerable confusion about a plan that was due for implementation a mere 17 days away from the time of the hearing.

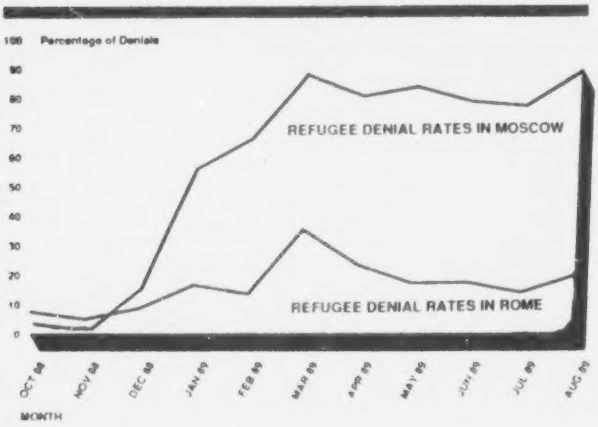
The government witnesses could not provide specifics on several aspects of the plan, including the questions on the form provided to applicants in Moscow, the process by which the application forms would be reviewed in Washington, and the staffing of the program.

Government witnesses stated that all persons denied refugee status in Moscow, as well as Rome, would be given the option of parole to enter the United States.

Morrison declared that "there is no statutory authority for parole admission of nonrefugees." He said, "You're in the only place the statute doesn't cover. It's truly amazing."

People deemed to be refugees will be placed on long lists waiting for their num-

REFUGEE DENIAL RATES IN MOSCOW AND ROME



INS decisions on motions to reconsider denied cases are not included in the monthly denial rates for Rome. As of 8/31/89, INS had reviewed 1,814 initially denied cases and had approved 774 (43 percent) as refugees.

From October 1, 1988 to August 31, 1989, 14.5 percent of refugee claims in Rome were denied (including decisions on motions to reconsider initially denied claims). By contrast, 73.6 percent of refugee claims were denied in Moscow at that same time.

In November 1988, no cases were adjudicated in Moscow

Source: U.S. General Accounting Office

ber to come up, he said. Those without family ties to the United States will be placed even farther back. But those denied refugee status would be allowed to leave immediately for the United States "on their own ticket" under humanitarian parole, as the plan was outlined by Administration witnesses.

Rep. Lawrence Smith (D-Fla.) subjected the witnesses to intense questioning about the number of cases INS estimates it will be able to process out of Moscow. The INS plan calls for six adjudicators. Current estimates of the number of new applicants for FY 90 range as high as 200,000. The INS projects that the six adjudicators would interview 4,000 per month.

Gerald L. Coyle, INS chief of staff, said, "One person can process 50 cases a day." He added that "most of the cases are obvious. It only takes two to three minutes if the person has a well-founded fear of persecution."

Smith responded, "Is this a bakery or the INS?" Calling the numbers "absurd," Smith lashed out at the new policy. "What kind of logic prompts that?--To close other processing down without an alternative in place." He said that "we're going to look like a laughingstock to the Soviets."

Morrison produced statistics showing that 40 INS adjudicators within the United States in FY 88 made a total of 14,000 grants and denials for the entire year. He requested that the INS apply the "magic" it planned to use in Moscow to "clear the asylum backlog here in the United States," where tens of thousands of Central Americans are in detention or paroled out pending asylum adjudication.

Denial Rates and Lack of Representation

Rep. Eliot L. Engel (D-NY), calling the plan "harebrained" and the situation "disgraceful," questioned the fluctuations in denial rates and the discrepancies between denial rates of applicants in Rome and Moscow. For example, during the first six months of FY 89, the denial rates in Rome varied from less than 10 percent in the first quarter to more than 35 percent in March. Then, he noted that denial rates tended to fluctuate wildly, but always averaged out to about 20 percent, suggesting, he intimated, that a 20 percent "quota" on denials might have been informally agreed upon within the INS.

He also pointed out that in Moscow the denial rate varied from 54 percent in January to 87 percent in March.

Coyle denied that there was a quota on approval rates. He said that it is normal for such rates to vary and said that the INS had concealed weekly tallies of those rates because they were afraid that the fluctuations would be misinterpreted.

A private witness, Karl Zukerman, executive vice president of the Hebrew Immigrant Aid Society (HIAS), testified, "Despite sworn testimony from the INS to the contrary, all evidence points to a directive requiring a denial rate of about 20 percent outside of Moscow."

At one point in the hearings, Rep. Benjamin Gilman (R-N.Y.), chairman of a congressional task force on Soviet emigration, said that Eagleburger had earlier told the task force that "the denial rate would go down to 10 percent," but that since that time it had instead gone up.

Questions were also raised about why nearly half of initially denied cases in Rome are overturned on review (43 percent, according to the GAO). LaFontant said that denied applicants in Rome are able to seek the advice of HIAS and to bring additional evidence to bolster their cases. She said that many were not aware at the time of their first interview of the standards that needed to be met to be eligible for refugee status. "When I talked to the HIAS people in Rome," she said, "I said to them that I did not feel that the applicants who went before the INS knew how to present their cases properly. They were at a loss as to what to say. They could not prove that they were actually persecuted." She said that half were overturned on appeal due to the professional assistance of HIAS.

Engels said that the high approval rate on appeal proved his point that denial rates are arbitrary and capricious, and that applicants will have reduced opportunity to establish their cases when processing shifts to Moscow due to the absence there of HIAS or other voluntary agencies.

Drawing a Line in the Sand While the plan itself drew fire from both Democrats and Republicans, Morrison was especially critical about the lack of consultation prior to the announcement of the Moscow processing plan.

"This change in policy, despite repeated requests, has never been discussed with this subcommittee, and I don't know who in Congress it was discussed with," he said.

After learning that the President has signed a Determination to enact the plan, Morrison accused the Administration of drawing battle lines over the issue. "The only way to change a Presidential Determination is to pass legislation," he said. "You have drawn a line in the sand. You know there has been a tremendous concern here about this whole question. Now you're telling me that the President has taken sides and has drawn a position."

Morrison said, "I don't think the President has been well served by taking it to his level without consultations with the legislative branch. That was a very foolish thing to do."

Morrison indicated that he was in no mood to back away from the legislation he had introduced (H.R. 2022) giving a presumption of refugee status eligibility to certain groups of Soviets, Poles, and Indochinese. That bill passed the House in July by a vote of 358-44, and a similar measure, though less far-reaching, has passed the Senate as the "Lautenberg Amendment" (see Refugee Reports, Vol. X, No. 7).

By the same token, he showed little forbearance for attempts by Administration witnesses to introduce their favored legislative approach into the discussion. The Administration is pushing for H.R. 2646, introduced by Rep. Lamar Smith (R-Tex.), which would establish a new special immigrant category, allowing another 30,000 to be admitted annually who do not meet the refugee definition.

"The Administration says it opposes the naming of countries and nationalities," said Morrison, "but we all know that the special immigrant legislation is intended to apply to only a few countries--the USSR and maybe Vietnam, where parole is being offered routinely. If we need special rules for special circumstances, let's write them down." He said that Congress frequently passes tax bills for single individuals or corporations. Just because the system was once racist, he said, doesn't make it discriminatory to single out specific groups.

Morrison said, "We can talk turkey about special immigrant legislation when we end the hypocrisy about what we are trying to do. I think we could solve the problems we're trying to solve if we talked honestly."

Jewish, Evangelical Christian, Groups Comment on Moscow Plan After a day of grueling criticism of the Administration's plan by members of Congress, private witnesses representing Jewish organizations seemed less combative towards the government's initiative.

Mark E. Talisman, director of the Washington Office of the Council of Jewish Federations, said, "Actual elements of the plan are very solid." Zukerman, of HIAS, agreed that the idea had merit, that it could save money and reduce time in transit.

But, said Zukerman, "Don't close down

what is working [i.e., Vienna-Rome processing] for something unproven, untested."

Zukerman pointed out several unresolved problems with the Moscow processing plan: 1) the current 46 percent rejection rate of Soviet Jews in Moscow; 2) the absence of a confidential place for applicants to tell their persecution stories; 3) the absence of a HIAS presence to represent and advise clients; 4) problems with secure data communications between the United States and the USSR; and 5) political and logistical difficulties in securing permission for staff to be stationed in Moscow.

Representatives of both HIAS and World Relief, a voluntary agency associated with the National Association of Evangelicals, said that they would be willing to establish offices in Moscow if they were permitted to do so.

Donald Hammond, director of USA Ministries, expressed deep reservations about the plan. He said that currently less than one percent of the applicants and would-be applicants in Moscow are Evangelical Christians, and would be forced to wait at the end of the line of new applicants after October 1. Therefore, he said, "the Administration cuts off the departure of virtually all Evangelical Christians from the USSR for the immediate future." Hammond said that the new policy represents a "callous disregard for the lives of a very vulnerable people," because it will force Evangelical Christians to wait for years to leave the Soviet Union. But, he said, "most Evangelical Christians believe glasnost is merely a breathing spell before an even more widespread repression against religious activity begins."

On the previous day, a private witness representing the Refugee Policy Group, Susan Forbes Martin, criticized the trend on Soviet refugee admissions from a different perspective. "With liberalization in a number of these countries [of Eastern Europe and the Soviet Union] as well as an opening up of legal emigration possibilities," she said, "the presumption of refugee status must be reexamined."

Forbes said that the rapid changes taking place in Poland, Hungary, and to a lesser extent, the Soviet Union "would argue for a close look at individual applicants to determine if they do fit the refugee definition."

Senate Hearing More Subdued The government witnesses had "kinder and gentler" treatment at the hands of the Senate refugee subcommittee.

Most of the Senate fireworks were directed towards the media, other members of Congress, and voluntary agencies from Sen. Alan S. Simpson (R-Wyo.).

He called presumptive refugee status "absurd," and blasted any adjudication system that does not look on a case-by-case basis at applicants or that tilts towards specific nationalities.

"I cannot support gimmicking the system for those who are not refugees or who could come under parole or as immigrants," he said. Simpson said that the United States should "stop diddling around with foreign policy refugees who are not internationally defined as refugees."

Reacting to the press response to Ambassador LaFontant's comment about the option of return to the Soviet Union, Simpson said, "For some Soviets, the choice between Israel and going back to the USSR exists. He cited conversations he had had with Soviet applicants who said they would rather stay than go to Israel. "If they would rather remain than go to Israel, that says something about the level of persecution," he said. "No other group of refugees on earth gets a choice of country of first asylum," he said. "We forget that."

When it comes to "diddling with the Refugee Act," Simpson said it is the "potent voluntary agencies who really know how to crank it up." He said this is especially true "where the rubber hits the road--on the question, does every emigre get full refugee benefits."

Simpson accused the voluntary agencies of "playing a duplicitous game" by "banging for increased [refugee admissions] numbers" after the budget is known in June and then "banging about the budget shortfall" in September when the increased numbers have inadequate funding.

Sen. Arlen Specter (R-Penn.) was the only Senator to take open exception to the Administration plan to move refugee processing to Moscow, saying that holding interviews there would have "a restricting and chilling effect on those filing their applications" there. Specter said that he thought 100,000 Soviet refugees should be admitted in FY 90, as opposed to the 50,000

Administration proposal. He pointedly said that his concern "crosses party lines."

Soviet Emigration Possible Partisan Political Issue Specter seemed, at least in part, to be reacting to a press conference the previous week in which some of the Democratic Party's biggest guns were drawn on behalf of a call for 100,000 Soviet and East European admissions in FY 90 "above and beyond the 1989 ceiling." The press conference featured House Majority Leader Richard A. Gephardt (D-Mo.) and Ronald H. Brown, chairman of the Democratic National Committee, among other party stalwarts.

Washington observers surmise that the Democratic Party may see an opportunity to score political points, especially with Jewish and East European ethnic constituencies, by taking a more expansive stance at a time when the Republican Administration is faced with increasing backlogs and financial constraints on processing additional refugee numbers.

Rep. William O. Lipinski (D-Ill.), who played a prominent role in the Democratic press conference, rose again on the House floor September 13 to say, "I would rather arrive at doing the right thing the right way. This should not become a partisan issue--but if that is the only way to have the right thing happen, so be it."

Meanwhile, in the Rest of the World... Both Sen. Edward M. Kennedy (D-Mass.), chairman of the Senate refugee subcommittee, and Morrison, his House counterpart, questioned government witnesses on the future of the Nicaraguan contras in Honduras and whether they would be considered as refugees for U.S. resettlement.

Eagleburger said that the primary U.S.

NATIONALITIES OF REFUGEES OF "SPECIAL HUMANITARIAN CONCERN TO THE U.S."

AFRICA
- Angola
- Ethiopia
- Lesotho
- Malawi
- Mozambique
- Namibia
- South Africa
- Zaire

EAST ASIA
- Cambodia
- Laos
- Vietnam

EASTERN EUROPE
- Albania
- Bulgaria
- Czechoslovakia
- Hungary
- Poland
- Romania
- Soviet Union

LATIN AMERICA AND THE CARIBBEAN
- Cuba
- El Salvador
- Guatemala
- Nicaragua

NEAR EAST/SOUTH ASIA
- Afghanistan
- Iran
- Iraq

The Refugee Act of 1980 [Section 207(a)(3) of the Immigration and Nationality Act] specifies that "admissions...shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation." The Presidential Determination allocates admission numbers for refugees of special humanitarian concern by region, not by nationality.

In an instruction to U.S. embassies abroad at the beginning of each fiscal year, the U.S. government designates the nationals of certain countries who can be processed automatically for refugee admission to the United States. Processing does not mean that such applicants will be approved; applications are adjudicated by INS on a case-by-case basis. Officers in the field are instructed to request from Washington an authorization to process any applications from persons of nationalities not on the list. For example, in FY 89, applicants from China, Burundi, Somalia, Libya, and Lebanon were processed, in addition to most of the nationalities on the above list.

Source: U.S. State Department/Bureau for Refugee Programs objective is for their reintegration into Nicaragua. Failing that, he said, the second option would be for local integration elsewhere in the region. Resettlement in the United States was considered the third option.

Ambassador Lyman said that 500, at most, of the 3,500 refugee numbers would be for Nicaraguans. The remaining 3,000 places are reserved for Cubans.

On Southeast Asian admissions, Morrison said that the Orderly Departure Program had previously admitted some Vietnamese as refugees who did not qualify as refugees but who had been swept up in the letters-of-introduction process. He asked, beyond the 15,000 Amerasians and their families this year, what groups would be included within the ODP ceiling of 26,500. Lyman said that the remainder would all be refugees, primarily former reeducation camp prisoners, with emphasis given to family reunification cases.

Lyman also said that beyond the ODP program, another 20,000 to 25,000 Vietnamese were expected to enter the United States as immigrants or through parole. Lyman said that people are offered parole who do not meet the refugee standard and do not qualify as immigrants, but was not able to provide details on this population.

Morrison asked, "Why do we have a parole program for Vietnam as opposed to anywhere else for people who are neither qualified immigrants nor refugees under the refugee definition?"

On Eastern Europe, the Administration called for 6,500 refugee admissions places for FY 90. It was reported in the course of the consultations that about 4,000 INS-approved refugees from Eastern Europe--half of whom are Poles--are still awaiting visa numbers in FY 89. It was also reported that expected refugee admissions for FY 89 for the Eastern Europe/Soviet Union region would fall short of the ceiling by about 5,000 places. Morrison asked why we weren't assigning the additional visa numbers that are available now to the 4,000 approved individuals.

Lyman said that the United States did not now have the logistical capability to move them here before the September 30 end of the fiscal year.

Morrison said that the shortfall in Soviet processing was known to HIAS in the beginning of August, which was sufficient time to reallocate numbers within the region to INS-approved Eastern Europeans. He said that he couldn't understand why "we waste 5,000 slots" when we just upped the number for the region in emergency consultations in June.

Hardly any of the consultations questioning was directed to refugees from the Near East/South Asia (6,500 admissions places requested; more than nine million refugees in the region, nearly two-thirds of the world's total) and Africa (3,000 admissions numbers requested; more than four million refugees, nearly 30 percent of the world's total).

Private Witnesses Although the Senate invited no nongovernmental witnesses to testify, private witnesses provided a day of testimony to the House subcommittee before the consultations with the Administration began.

Representatives from four voluntary resettlement agencies expressed what one termed "disappointment" in the government's proposed admissions ceiling for FY 90.

Testifying on behalf of the umbrella group, InterAction, Donald Larsen, executive director of Lutheran Immigration and Refugee Service, called the 125,000 admissions places "about 25,000 fewer than what is needed."

InterAction proposed an alternate worldwide ceiling of 140,500, including 20,000 from Eastern Europe, 5,000 each for Africa and Latin America, and 10,000 for the Near East/South Asia.

Zukerman of HIAS termed the 50,000 admission slots for Soviets "insufficient" and suggested 6,000 additional places. He proposed a Soviet breakdown of 40,000 Jews, 14,000 Evangelical Christians, 1,000 Armenians, and 1,000 other persecuted minorities.

Monsignor Nicholas DiMarzio, executive director of Migration and Refugee Services for the U.S. Catholic Conference, proposed a comprehensive plan for Polish nationals in Western Europe under which the United States would maintain FY 89 levels of refugee admissions, but would also cooperate with the Catholic Church, Solidarity, the UN High Commissioner for Refugees, and the government of Poland for "Project Return," a program of voluntary repatriation of

Polish asylum seekers.

DiMarzio also urged the United States to process as refugees shorter term political prisoners in Cuba and persons who have been imprisoned as a result of unsuccessful attempts to flee the country.

DiMarzio noted, "It is difficult to discuss the recent increase in Cuban illegal arrivals without noting the disparity between the treatment of Cubans and Haitians." He recommended that the United States create a program to process Haitian claims directly through the U.S. mission in Haiti, an idea that Morrison later raised with government witnesses.

Robert DeVecchi, executive director of the International Rescue Committee, focused his testimony on the situation of Vietnamese refugees following the adoption of a Comprehensive Plan of Action in Geneva last June (see Refugee Reports, Vol. X, No. 7) and on the status of Cambodians at the Thai-Cambodian border in light of the failed Paris Conference.

DeVecchi said that the United States should announce its intention to resettle at least 10,000 Vietnamese "longstayers" in FY 90 and to accept all previously rejected Vietnamese boat people with close family ties to the United States. DeVecchi also called for a renewed effort to obtain the release from the Thai-Cambodian border of several hundred Khmer families who could come to the United States as immigrants or parolees because of family connections in this country.

Declining Federal Support for Domestic Refugee Program Cited Larsen criticized the refugee program for being "driven by budgetary concerns." He called for more realistic projections of resettlement needs to "avoid changing direction in priorities and allocation of resources mid-stream during the fiscal year."

Larsen said, "It is ironic that a federal program of this magnitude which, by definition and design, is supposed to be responsive to emergency refugee situations around the globe, is by terms of the Gramm-Rudman-Hollings Balancing Act defined as discretionary and not exempt from the axes of the Office of Management and Budget."

Larsen also warned that the sharp decline in federal funding for the domestic side of refugee resettlement threatens the partnership of the federal government with state and local governments as well as the private sector. "Unless the recent trends of shifting more and more of the financial responsibility to state and local governments is reversed or forestalled," Larsen said, "we foresee that there might be a backlash of anti-refugee sentiments in some local communities that see themselves as inappropriately burdened by new arrivals."

His sentiments were echoed by Oregon State Refugee Coordinator Ron Spendal, representing the National Governors' Association. Based on a conservative estimate of 116,500 refugee admissions for FY 90, Spendal estimated that $579.6 million would be needed to continue the level of programs currently being provided to refugees. But, he pointed out, the Administration budget only proposes $242.3 million.

Spendal said that we may find ourselves "rescuing refugees from an undesirable and potentially life-threatening situation abroad, but abandoning them to a life as second-class residents in this country."

Overseas Assistance: The Silent Side of the Refugee Budget Roger Winter, director of the U.S. Committee for Refugees, spoke about the declining standards for refugee assistance in refugee camps worldwide. He attributed this deterioration, in part, to declining financial commitments from the United States.

Winter said that about half of the U.S. refugee dollars are spent to resettle less than one percent of the world's refugees. "As long as adequate additional resources are not forthcoming," he said, "the trend toward investing resources in resettlement is crippling, even killing, innocent civilians left behind in the refugee camps of the world."

Recent Developments

HONG KONG REFUGEE POPULATION RUNNING OUT OF TIME AND SPACE

Despite the talk of imminent forced repatriation, the overcrowding and squalid living conditions, increasing violence within the camps and hostility without, a sluggish and still-suspect screening program, and prospects for resettlement that are at best remote, Vietnamese boat people continue to pour into Hong Kong. In a four-month period from May through August, more than 28,000 arrived, nearly doubling the Vietnamese population.

There are currently 55,347 Vietnamese asylum seekers in Hong Kong, of whom 42,045 arrived after the government instituted refugee screening procedures on June 16, 1988. More than 61,000 Vietnamese reached asylum countries in Southeast Asia in the first eight months of 1989, the highest figures since 1981, according to the UN High Commissioner for Refugees (UNHCR).

Already pressed for space, the Hong Kong government responded by housing new arrivals on outlying islands, harbor ferries, and even the landing strip of a military airfield. In their search for new locations, the authorities encountered increasingly vocal, and sometimes hostile, opposition from Hong Kong residents.

Tensions inside the Vietnamese camps, meanwhile, were also rising, particularly when Hong Kong newspapers reported in July that Britain and Vietnam were nearing agreement on arrangements for the forced return of about 22 people already screened out as nonrefugees. Although one official called the announcement "premature", neither Hong Kong or Britain has attempted to hide its keen interest in returning Vietnamese boat people, voluntarily or otherwise.

Following a visit to the camps in mid-June, Nina Hale, deputy director of Refugees International (RI), had predicted that "things could really get out of hand." The hunger strikes that Vietnamese had staged in several of the camps, she said, "are just beginning."

On the evening of July 31, fighting broke out between rival Vietnamese factions in Shamshuipo detention center. Before 160 riot police intervened, eight people had been injured, including three young boys.

Less than one month later, on August 27, more than 1,000 northern and southern Vietnamese attacked one another on the island of Tai A Chau. This time, 350 riot police were called in, following a night of robberies, assaults, and five reported rapes.

Then, on Saturday, September 2, a Vietnamese man was killed and 11 others injured as violence erupted in Sek Kong detention center, a tent city of more than 7,000

"THE WORST ACCOMMODATION THAT HONG KONG HAS EVER PROVIDED FOR REFUGEES"

The following is taken from a letter to the South China Morning Post written by Chris Bale, director of Oxfam Hong Kong, describing a visit in late July to two of the new detention camps.

Saturday was a cold day and the rain was driving in from the sea. People were huddled together under sheets of canvas or even cotton sheets, trying to keep warm and dry.

Most have been at Tai A Chau for a few weeks and have not been given a single hot meal during that time. They survive on a monotonous diet of dry biscuits, canned food, and peanuts. An orange once a week is the only fresh fruit.

Fresh water is a major problem.... There are no toilets, and so the beach is dotted with human feces. The only place to wash is in the sea.

We went from Tai A Chau to the five ferries at Stonecutters Island, which house more than 2,000 people. The ferries were in a disgusting state. I saw one small boy sleeping on a lower deck, his head just a couple of feet from an overflowing toilet. There was rubbish everywhere, and the air was stagnant.

Of course, the recent influx of boat people has placed a tremendous strain on Hong Kong.... But while understanding these pressures, we should also recognize that the makeshift shelters at Tai A Chau and the filthy ferries are not fit for human habitation. They are the worst accommodation that Hong Kong has ever provided for refugees.

The Government hopes to clear the ferries, the tented camps, and Tai A Chau by the end of the year, as new places come onstream at Whitehead. We urge that this transfer be completed as soon as possible.

The thought of leaving mothers and young children out on the bleak shores of Tai A Chau when the weather turns cold is frankly horrific.

Of the 13,500 Vietnamese who arrived in Hong Kong before June 16, 1988, more than 5,000 are children under 18. Over 1,000 have spent their entire life in refugee camps. UNHCR

people, pitched on a British Air Force runway.

"What's happening inside these camps is a total breakdown of order," a relief worker told The New York Times. "Normal controls are gone. Parents do not even control their children. People are hopeless and frightened. Tempers are frayed."

Hong Kong Needs "Quick Fix" of Long-Stayer Resettlement The mood of crisis in the camps and throughout Hong Kong adds considerably to the pressure for immediate forced repatriation, a senior Joint Voluntary Agency official in the region told Refugee Reports, and threatens to derail the Comprehensive Plan of Action (CPA) agreed to in Geneva in June before the plan even gets on track. To allay that pressure, the official said, the United States "should be more forthcoming on resettlement and put the focus back on screening in the region. We need to get back to the point of the CPA. Forced return at this point was not what we agreed to."

Under the terms of the Geneva plan, resettlement countries agreed to admit all 55,000 of the "longstayers", who have lived in Southeast Asian refugee camps for three years or more. Of this number, the United States committed to resettle 22,000 within a three-year period.

Despite these commitments, the official said, "very little is happening to put a comprehensive resettlement plan into action." He urged support for a four-point proposal made by UNHCR at a July meeting of the CPA steering committee. According to the official, UNHCR proposed that:

1) Rather than spread out the resettlement of long-stayers evenly over three years, resettlement countries should take 50 percent of the total in the first year, 30 percent in the second, and 15 percent in the third.

2) Refugees who have lived in the camps longest should be resettled first.

3) Long-stayers should be accorded virtually presumptive refugee status.

4) Resettlement numbers should be allocated to the first-asylum countries proportionally to their population of long-stayers.

In order to get the CPA back on track in short order, the official said, "Hong Kong needs a quick fix." He proposed moving all 13,000 Vietnamese who entered Hong Kong prior to June 16, 1988 to the Philippine Refugee Processing Center in Bataan, where they would gradually be processed for resettlement in other countries.

Screening and Voluntary Repatriation Offer

Small Signs of Hope In the first year since Hong Kong instituted refugee screening procedures for new Vietnamese boat arrivals last June 16, the program has been criticized by a wide range of human rights groups and refugee organizations, including UNHCR. Critics pointed to its low approval rates (out of 2,394 people interviewed, only 289 have been screened in), inadequate training of interviewers and translators, lack of a meaningful appeals process, inordinate delays, and a host of other problems.

In late May, the Hong Kong government spent about $1.2 million to revise its screening procedures. Among other changes, it created four refugee status review boards comprising representatives from the civil service and the private sector to consider appeals made by those initially rejected for refugee status. As of late August, 99 of the first 519 Vietnamese considered by the newly established boards won their appeals.

It is expected that the review boards eventually will be able to process 400 appeals cases per week, but they are nowhere near that rate yet and, with weekly arrivals averaging four times that amount since April, long delays are still likely.

UNHCR has also carried out training for immigration officials responsible for interviewing refugees. While the results have not been dramatic, Kalu Kalumiya, a UNHCR refugee protection specialist sent to Hong Kong to coordinate the training, said, "I think we have been able to persuade some of the officers that it is better to screen in a nonrefugee than to screen out a bona fide refugee." In July, refugee screening approval rates doubled from 10 percent to about 20 percent.

"My sense is the Hong Kong government is trying" to improve the screening program, said RI's Hale. "They have made some positive efforts. They are processing more people than before. UNHCR has done some training, and there are some improvements in the appeals process." She cautioned, however, that "basic problems remain the same," particularly the "interpretation gap." Questions in the interview are first asked in Cantonese, then translated into Vietnamese; the process is reversed for the answer. "It's very easy for critical information to get misinterpreted or lost," Hale said, especially when interpreters encounter unfamiliar northern Vietnamese dialects.

Hong Kong government and relief agency officials, meanwhile, express cautious optimism at the gradual increase in the number of Vietnamese willing to return home. As of September, 264 people had returned to Vietnam voluntarily, and another 1,000 in Hong Kong had indicated an interest in going back, according to State Department officials.

Robert Van Leeuwen, head of the UNHCR delegation in Hong Kong, has called for patience on everyone's part to give voluntary repatriation a chance to work. After all, he said, "these people come from a history of 14 years during which, when [their countrymen] left Vietnam on boats, they were received by countries of first asylum and more or less automatically resettled in third countries." It will take some time to adjust those expectations.

Update

- A total of 6,470 Jews left the Soviet Union in August, of whom 850, or 13.1 percent, went to Israel, according to the September 1 Jerusalem Post. Another 1,700 Christians exited the Soviet Union on Israeli visas. The number of emigrants was the highest in ten years, according to Jewish Agency officials.

- More than 800 East Germans are arriving in West Germany per day, the West German Foreign Ministry reported on September 21. In the previous ten days, 17,500 East Germans had transited to West Germany through Hungary.

- As of August 14, some 279,000 ethnic Turks have fled Bulgaria in the past three months, according to the Washington Post. After Bulgaria expelled a first wave of its ethnic Turkish citizens as part of a five-year assimilation campaign, most of the remainder have fled on their own, as many as 4,000 a day crossing into neighboring Turkey. According to the Post, Turkey had made no request for international financial help, although it said it was prepared to offer asylum to all of the estimated 1.5 million ethnic Turks in Bulgaria.

• Former President Jimmy Carter announced on September 18 that he had succeeded in forging an agreement between Sandinista leaders and Nicaragua's Atlantic Coast Miskito Indians for their repatriation after years of exile in Honduras.

The move was seen as one of a series of reforms leading up to the scheduled Nicaraguan elections in February. After meeting with Carter, Sandinista government officials dropped earlier conditions for the return of Miskito leaders. They now must only agree to renounce armed struggle and illegal activities against the Nicaraguan government, the same conditions required of returning Contra leaders.

On a less promising note, contra leaders postponed a visit from UN and OAS observers September 16 to oversee demobilization of their camps in Honduras. Observers doubt that the contras will demobilize by December 8, the date called for in the Tela Agreement, signed by five Central American presidents.

• Japan announced on September 11 that it would deport more than 600 Chinese who reportedly misrepresented themselves as refugees from Vietnam. The Japanese government said that it would continue to accept boat refugees from Vietnam, but termed as "economic migrants" those fleeing from China. Japanese officials were cited by the New York Times as saying that those being deported were either mainland Chinese or ethnic Chinese from Indochina who took asylum in China in recent years. The Times said that the deportees "seem certain to face punishment once they return to China." It also said that the deportation plan was supported by the UN High Commissioner for Refugees.

Reader Exchange

• The Immigration and Naturalization Service has set up a national toll-free number for legalization applicants seeking information on where to enroll in courses of study to satisfy the English and civics requirements for lawful permanent residence.

The hotline number, 1-800-842-2924, will serve callers in Spanish as well as English.

• Refugee Processing Caseworker. The American Council for Nationalities Service seeks an individual to be responsible for the tracking and travel of over 5,000 refugee clients annually from overseas posts to 28 resettlement sites throughout the United States The person will serve as casework liaison between local affiliates and overseas posts; maintain records of refugee arrivals; handle billing for refugee arrivals; and be responsible for formulation of projections of refugee arrivals. Experience in refugee processing, knowledge of computer applications, and strong organizational skills are required. Send letter and resume to Gerald Brown, Director of Refugee Services, ACNS, 95 Madison Avenue, New York, NY, 10016. (212) 532-5858.

Current Research

WHY NATIONS CLOSE THEIR BORDERS

This year's exodus of humanity from the Soviet Union and Eastern Europe and the visible groping for an appropriate response this month by members of Congress and the Administration calls to mind a book published in 1987 when the wall separating Western and Eastern Europe indeed looked more like an Iron Curtain than it does today.

Closed Borders: The Contemporary Assault on Freedom of Movement explores the reasons why governments close their borders to emigration. The author, Alan Dowty, a professor of political science at Notre Dame, makes telling observations about the political psychology of governments that attempt to prevent free movement.

Dowty points out, for example, the seeming anomaly that the very governments who prevent people from leaving are the same ones who expel others. Bulgaria's recent policies are anticipated by Dowty's observation that the thinking of such governments is: "If we want you, you must remain; if we don't want you, you must leave." Dowty says, "The decision hinges on the individual's usefulness to the state; personal interests and predilections count for little. Both the right to leave and the right to remain are swept aside by the claims of the state."

Freedom of movement pits individual will against state power. Dowty finds that bars to emigration are most often associated with governments promoting collectivist ideologies. "According to the collectivist ethic," he writes, "the burden is on individuals to demonstrate why they should be allowed to leave, rather than the state to show why they should not." Dowty says that the reasoning of such societies is that "the whole is better served if individuals are compelled to remain a part of it."

Dowty surveys the emigration policies of the world's governments to make his point. In looking at the 21 most restrictive regimes in the world, Dowty observes, "the most obvious common denominator [is] not the level of economic development, nor the threatened loss of talent, but the nature of the regime. All 21 are ideologically doctrinaire one-party states, and, except for Burma, Iraq, and Somalia, define themselves as Marxist-Leninist."

Among the ten countries that have produced the most refugees in recent years, Dowty finds that five--Afghanistan, Ethiopia, Angola, Vietnam, and Cambodia--were rated in the most restrictive category in curtailing emigration.

Dowty discussed the tension among Soviet policymakers about options for dealing with Jews and other discontented minorities. He noted that "it is hard to conceive of a genuine collective Soviet interest that is credibly served by maintaining a sealed border." On the eve of the Gorbachev era, Dowty observed, "The Soviets are surely past the point where they need fear an anti-Soviet community in exile, or a serious brain drain to their intellectual resources. The closer one looks, the more it appears that hostility to emigration is linked not to concrete interest but to ideological reflexes, obsessive habits of tight control, and the traditional Russian suspicion of the outside world."

At one point, Dowty suggests that Soviet policy might owe more to centuries-old traditions and attitudes than to Marxist ideology. "In some ways," he writes, "the Soviet leadership has simply extended pre-Soviet practices on controlled mobility, combining a quasi-medieval Tsarist view of human movement with twentieth-century means of enforcement."

The Right to Leave: The Last Line of Defense for Human Rights Not surprisingly, Dowty comes down on the side of more open borders. He contends that the denial of the right to flee is the most fundamental deprivation save the loss of life itself, "for it eliminates the means to escape all other forms of persecution and injustice."

He calls the right to leave the "last line of defense in the realization of other rights."

On the other hand, open borders force governments to be more accountable to the wishes of their citizens. "A regime concerned about emigration will tend to be more responsive to the welfare and wishes of its citizens," Dowty observes. "By the same token, if a government simply forecloses emigration, it loses an important index of social discontent."

Closed Borders is published by the Yale University Press and is listed at $12.95 in paperback, $27.50 hardcover. To order directly from Yale University Press, call (203) 432-0940. A $2 shipping charge will be added.

Resources

MANUAL ASSESSES OPTIONS FOR CHINESE IN THE UNITED STATES

Chinese nationals wishing to delay their return to their homeland as a result of political conditions there will have a better understanding of their legal options thanks to a recently published manual from the Lawyers Committee for Human Rights.

Manual on Gaining Immigration Status for Chinese Nationals in the United States discusses various options, including the extension of current nonimmigrant visas, change of nonimmigrant status, eligibility for adjustment of status to permanent resident, and asylum. The manual also looks at the Administration's "deferred departure" program, as well as congressional initiatives (see Refugee Reports, Vol. X, No. 7). Appendices include relevant INS forms and cables.

The task of the manual is complicated because policies regarding Chinese nationals are not set in stone. Legislation is still pending that could change U.S. policies.

The manual says, "Predictions as to the final shape of such legislation at this moment are hazardous, but the possibility of such legislation is yet another reason for investigating all avenues to maintaining legal status."

At the same time, new directives are still being issued by the INS. On August 30, the INS issued a cable from the Acting Commissioner to all field offices saying, "When applying for deferred departure, a PRC national is not required to sign a statement declaring reluctance to repatriate." This is a departure from the June 7, 1989 INS policy statement (included as an appendix to the manual) that says, "Service action to enforce departure to the PRC shall not be taken prior to June 5, 1990, of PRC nationals who indicate an unwillingness to return to the PRC at the present time."

The Lawyers Committee manual is available for $10 from the Lawyers Committee for Human Rights, 330 Seventh Ave., New York, NY 10001. (212) 629-6170.

NEW BOOK RECOUNTS HISTORY OF VIETNAMESE DISPLACED PERSONS AND WAR VICTIMS

In the violent conflicts that wracked Vietnam from 1954 to 1975, more than 12 million civilians, over half the population, were displaced in South Vietnam and an enormous number were dislocated in the north as well, according to a new book by Louis Wiesner, a retired Foreign Service officer and an authority on international refugee assistance.

Wiesner sees the displacement of Vietnamese in this 19-year period as historically unique in several ways. "First, the sheer magnitude and duration of the displacements, which forced many away from their homes permanently, were unusual. This alone changed the social structure of South Viet-Nam and altered its history. Second, the United States was involved more closely and for a longer time in both the displacements and the relief of the dislocated people than it has been in any other part of the world. Third, several different systems of humanitarian assistance were developed within the country and were modified and adjusted over time."

Wiesner recounts the exodus in 1954-55 of more than 900,000 northerners, most of them Catholics, to the south, following the July 1954 Geneva agreements giving North Vietnam to the communist Viet-Minh. During the same period, "about 90,000 armed Viet-Minh and 40,000 dependents were transported north by Polish and Soviet ships," Wiesner writes. "10,000 of the regroupees were highlanders and about 10,000 were children."

Tracing the subsequent ebb and flow of refugees and evacuees in South Vietnam, Wiesner examines the reasons for displacement of particular populations, as well as the evolution of relief and reintegration programs and policies. He also looks at "the ways in which the dislocated and traumatized people adjusted or failed to adjust...and the effects of the dislocations upon their attitudes and actions toward the conflicting parties."

Wiesner separates the refugees and evacuees in the south into five major groups: refugees from the north, southern refugees from communism, refugees from the war (by far the largest group), people forcibly relocated by the Government of South Vietnam, and regrouped Montagnards.

Victims and Survivors: Displaced Persons and Other War Victims in Viet-Nam, 1954-1975 is available for $55.00 from Greenwood Press, 88 Post Road West, Box 5007, Westport, CT 06881. (203) 226-3571.

HELSINKI WATCH REPORTS ON POLAND

Although the political triumph of Solidarity in Poland and the drop in the number of political prisoners in that country are clear indications of the improvement of human rights, Polish asylum seekers insist that they still fear persecution there.

Violations of the Helsinki Accords: Poland by Helsinki Watch supports the view that persecution continues, albeit more subtly than before. "Instead of imprisoning its opponents--the main form of government repression in the past--the government now uses economic penalties, such as heavy fines and confiscations of property," says the December 1988 report. "In addition, there has been a dramatic increase in police brutality, as illustrated by the beating of young people involved in peaceful demonstrations."

The 77-page report is available for $8 from Human Rights Watch, 36 W. 44th St., New York, NY 10036. (212) 840-9460.

FY 90 PROPOSED REFUGEE ADMISSIONS--COMMUNIST VERSUS NONCOMMUNIST ORIGIN

	Communist	Noncommunist	Uncertain
East Asia	51,500	-	-
Soviet Union	50,000	-	-
Eastern Europe	6,500	-	-
Near East/S. Asia	2,000 (Afghan)	4,000 (Iranian)	500 (Other)
Latin America	3,000 (Cuban)	-	500 (Other*)
Africa	2,000 (Ethiopian)	-	1,000 (Other)
Unallocated	-	-	4,000**
	115,000	4,000	6,000

* According to FY 89 figures, through June, non-Cuban admissions are overwhelmingly from Marxist Nicaragua--210 from Nicaragua; 2 from El Salvador.

** According to FY 89 figure, through June, unallocated numbers went exclusively to Cubans, as part of the Private Sector Initiative.

Editor's Note: Projected refugee admissions for FY 90 are likely to be more than 96 percent from communist or communist-dominated countries. The lowest possibility would be 91 percent (assuming all "other" numbers from Latin America, Africa, the Near East/South Asia, and Unallocated would go to noncommunist countries); the highest, (assuming the opposite, which is closer to actual FY 89 admissions), would be 97 percent.

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October 20, 1989 Volume X, Number 10

FROM KILLING TIME TO THE KILLING FIELDS?: CAMBODIAN REFUGEES FEAR FORCED REPATRIATION

Despite the failure of the four rival Cambodian factions to achieve any political compromise at a Paris international conference held in August, they did manage to agree on at least one thing: that the 306,000 Cambodian refugees and displaced persons now in Thailand should be allowed to return home safely and voluntarily in the event that a comprehensive political settlement can be reached.

But the collapse of the Paris conference leaves that prospect in real doubt. And with the withdrawal in late September of what Vietnam asserts to be the last of its 26,000 remaining troops in Cambodia, the country leans into the abyss of a bloody civil war. Cambodian resistance leaders insist that the camp populations will be left in place. But--noting that forced repatriations have already occurred in the past--relief workers on the Thai-Cambodian border, and refugees themselves, are expressing fears that people could be moved back, against their will, to support the resistance effort and establish territorial control by rival factions inside Cambodia.

In a letter sent to Refugee Reports, a Cambodian on the border said, "It is possible that the forcing repatriation may happen to us, because each faction seems to want to have power, they have to have people with them, and in order to have people with them, they may force the people to go with them to Cambodia so that they can use them for their own purposes."

The letter, which was unsigned but declared itself the "voice of innocent refugees who are living in all camps along the Khmer-Thai border," said that until safe and voluntary return was possible, "we want to stay in a transit camp which is completely neutral and controlled by no faction, but probably by UNHCR [UN High Commissioner for Refugees] or other international organizations."

It is not enough, some aid officials say, to prevent forced repatriation. Until Cambodians can return home in safety, they say, a way must be found to protect life and sanity in the dangerous and desperate border camps.

"These are not the killing fields," wrote British

IN THIS ISSUE:

In the wake of a Vietnamese troop withdrawal, and facing the imminent prospect of an all-out civil war, Cambodian refugees and displaced persons on the Thai-Cambodian border fear being forcibly returned to their country...1

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novelist Margaret Drabble after a visit to the largest Cambodian camp, Site 2; "these are the fields of killing time. They breed violence, rape (of children, too, increasingly), robbery, extortion, banditry, depression, psychosis, suicide--but what else would you expect in a city with no real employment and no prospects?"

Forced Return is Common in the Khmer Rouge Camps Nearly 73,000 Cambodians in Thailand live in camps controlled by the Khmer Rouge, responsible for the deaths of more than one million people from 1975 until it was driven from power by invading Vietnamese troops in December 1978. For the Khmer Rouge camp residents--many aid workers say "prisoners" is a more accurate term--forced relocations have been commonplace.

Between June 1988 and July 1989, Khmer Rouge leadership are believed to have moved at least 23,000 people from UN-assisted camps to sites along what has been called the "hidden border," where an estimated 50,000 people live in Khmer Rouge satellite villages and military camps beyond the reach of international or private relief groups.

In August, refugees and aid officials reported that 2,000 people living in Site K had returned to Khmer Rouge military bases. Established in April, Site K is one of four Khmer Rouge camps in Thailand to which relief agencies have been given access. The other camps are Site 8, Bo Rai, and O'Trao.

The population of Site K, at one point as high as 12,000, stood at 8,900 at the end of September. "All evidence indicates there is some forced removal and even at gunpoint," an official told Agence France-Presse. One refugee at Site K said, "Those who go back go to do their duty. But everyone wants to stay here."

In the camps controlled by the two noncommunist resistance factions, forced relocations have not been a problem so far, according to relief workers, but many worry for the future. In Site 2, which is run by the Khmer People's National Liberation Front (KPNLF), military ranks reportedly have been assigned to key civilians in the camp, including medics, construction workers, and engineers, pending a transfer to guerrilla bases in Cambodia.

Farther to the north, at Site B, run by supporters of Prince Norodom Sihanouk, about 600 Cambodian secondary school students, most of them around 18 years old, were sent off on August 22 to a secret military base for 35 days of training.

"The civilians are the only power base they have; they will hold on to them," a relief official told The Independent, a London newspaper. "Paris was their last chance. Now all they can do is fight for territory."

Kun Kim Teng, deputy administrator of Site B, insisted that the students were away on a "boy scout camping trip." He said, "This is no such thing as mobilization of forces. The boys will definitely come back to school as soon as their vacation ends." He said that the training course includes concentration on "agriculture", "political indocrination", and "some basic military skills."

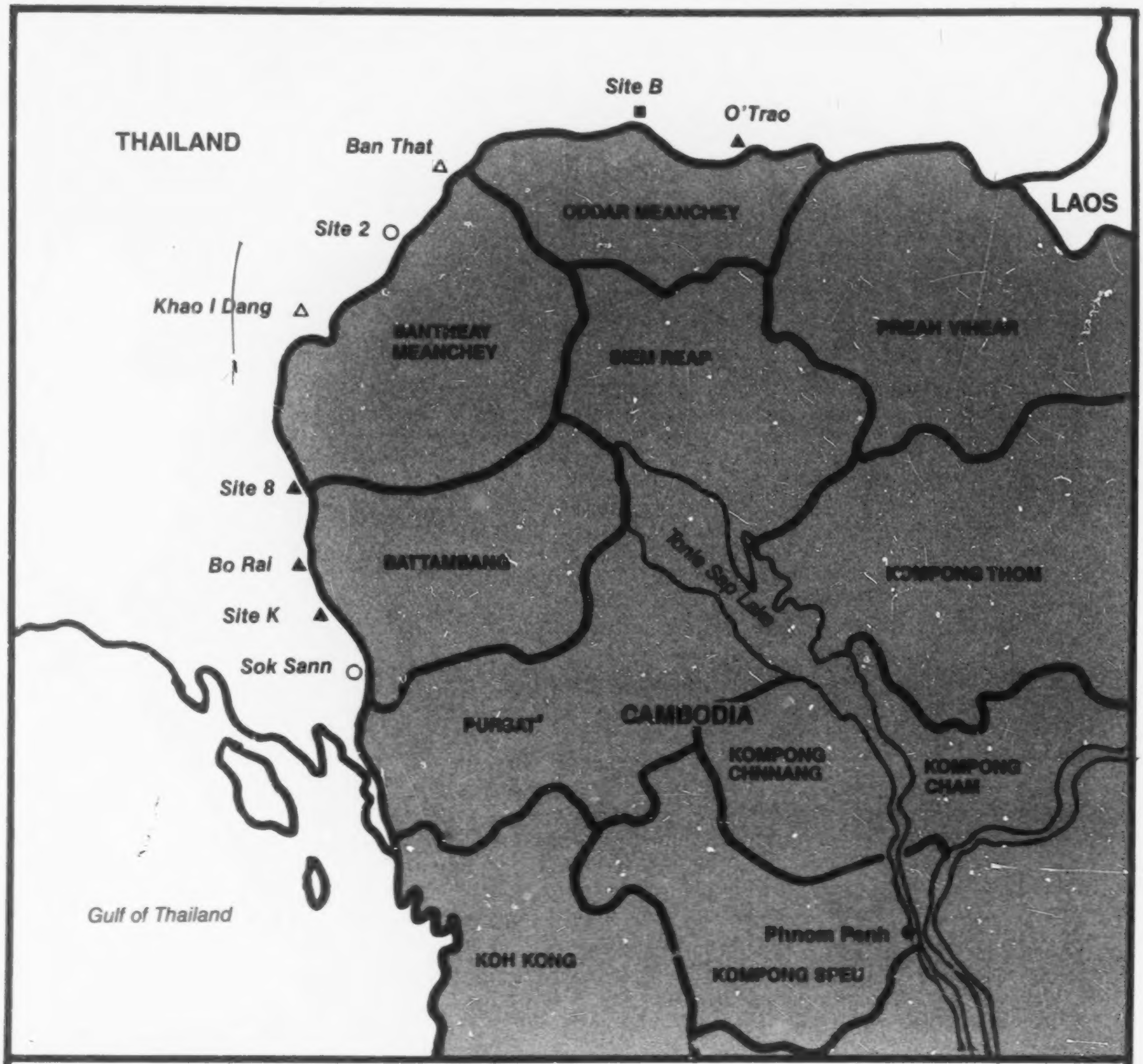
On August 31, the KPNLF issued a statement to the press, denying any plans to move its civilian population into Cambodia until a comprehensive political settlement is reached.

UNHCR Will Be On The Border To Coordinate Repatriation According to several recent press accounts, responsibility for the Cambodian border camps will be transferred from the UN Border Relief Operation (UNBRO) to UNHCR, which has been designated by UN Secretary-General Javier Perez de Cuellar as the lead agency for the repatriation program.

UNBRO was established in 1982 to assist displaced Cambodians at the border. With a 1989 operating budget of $59.6 million, the agency is responsible for providing food, shelter, health care, sanitation, elementary education, and technical skills training for the currently 291,000 Cambodians designated as "displaced persons" in Thailand.

UNHCR officials have confirmed that the transfer of administrative responsibilities will take place, but declined to say when. "The timing will depend primarily on political developments in Cambodia," one official told Refugee Reports, and cautioned that the UNHCR role on the border should be seen strictly in terms of repatriation, rather than its possible impact on asylum conditions in Thailand or prospects for resettlement in other countries. "We do not want to get anyone's hopes up that a UNHCR presence would offer substantial new options to people on the border," other than a safe

Refugee Camps on the Thai-Cambodian Border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O'Trao
Ban That
LAOS
Site 2
ODDAR MEANCHEY
Khao I Dang
BANTHEAY MEANCHEY
SIEM REAP
PREAH VIHEAR
Site 8
Tonle Sap Lake
Bo Rai
BATTAMBANG
KOMPONG THOM
Site K
Sok Sann
PURSAT
CAMBODIA
KOMPONG CHHNANG
KOMPONG CHAM
Gulf of Thailand
Phnom Penh
KOH KONG
KOMPONG SPEU

Cambodian refugee camps, under the control of:

- ▲ Khmer Rouge
- ○ Khmer People's National Liberation Front (Son Sann)
- ■ Prince Sihanouk's group
- △ United Nations High Commissioner for Refugees

Camp populations, September 1989, total about 305,900.

SITE 2	143,956	SITE B	63,747	KHAO I DANG	11,672
Dong Ruk	19,139	SITE 8	41,384	SITE K	8,944
San Ro	10,744	O'TRAO	18,164	BAN THAT	
Ban Sangae	24,771	SOK SANN	10,383	Khmer	3,207
Nong Chan	22,379	BO RAI	4,443	Vietnamese	224
Samet	66,747				

Sources: United Nations Border Relief Operation

Cambodian civilians who fled to Thailand on July 24, after two days of Vietnamese-Cambodia army shelling against their Site 8 refugee camp. The Khmer Rouge camp, which housed nearly 36,000 people, was temporarily evacuated. Photo Credit: Associated Press

return home, the official said.

In the meantime, numerous international and private relief organizations are initiating projects at the border and inside Cambodia to assist in repatriation and reintegration efforts.

S.A.M.S. Kibria, special representative of the UN Secretary-General for coordination of Cambodian humanitarian assistance programs, told a multilateral donors' meeting on September 13 in New York that the Ford Foundation has funded a study to determine the original home areas of Cambodians on the border. UNHCR is assessing the capacity of selected Cambodian provinces to absorb the returnees. The International Committee of the Red Cross (ICRC) is planning to expand its family tracing service inside Cambodia. New vocational skills-training programs are being implemented in the border camps, Kibria said.

But international aid and protection are threatened if forced repatriation occurs, Kibria suggested. "I hope you will agree with me that any movement of the population into Cambodia which lacks the assurance of safety and freedom of choice cannot be supported," he said in his speech to the donors. "Indeed, it would make it extremely difficult and perhaps impossible for us to continue our material assistance to the population or extend the necessary protection to them."

The statement on repatriation agreed to by the Paris conference participants specified that "repatriation of Cambodian refugees and displaced persons should be voluntary and taken in full possession of the facts. Choice of destination within Cambodia should be that of the individual. The unity of the family must be preserved."

Spontaneous Repatriation Also Occurs

Although reliable figures are hard to come by, relief officials feel sure that large numbers of border Cambodians have been returning home on their own in the past year. On July 4, UNBRO completed a census of Site 2, and determined that the actual population in the camp was 140,000. The pre-count

STATEMENT ON REPATRIATION OF REFUGEES AND DISPLACED PERSONS ADOPTED BY THE PARIS CONFERENCE ON CAMBODIA

Introduction

1. Once a comprehensive political settlement has been achieved, every assistance will need to be given to Cambodian refugees and displaced persons as well as to countries of temporary refuge and the country of origin in order to facilitate the voluntary return of all Cambodian refugees and displaced perons in a peaceful and orderly manner. It must also be ensured that there would be no residual problems for the countries of temporary refuge. The country of origin with responsibility towards its own people will accept their return as conditions become conducive.

Conditions Conducive to the Return of Refugees and Displaced Persons

2. The task of rebuilding the Cambodian nation will require the harnessing of all its human and natural resources, and to this end, the return of Cambodians from their temporary refuge and elsewhere outside their country of origin will make a major contribution.

3. The mass repatriation of the Cambodian refugees and displaced persons can only take place in the context of a comprehensive political settlement. It will be important that any such settlement be in terms which they will find conducive to their return, namely in safety, security and dignity.

4. A comprehensive political settlement will, inter alia, ensure that the conditions which have led to a large number of Cambodian refugees and displaced persons seeking refuge in other countries should not recur. Nevertheless, some Cambodian refugees and displaced persons will wish and be able to return spontaneously to their homeland.

5. There must be full respect for the fundamental human rights of all Cambodians, including those of the repatriated refugees and displaced persons, in recognition of their entitlement to live in peace and security, free from intimidation and coercion of any kind. These rights would include, inter alia, freedom of movement within Cambodia, the choice of domicile and employment, and the right to property.

6. Following the comprehensive political settlement every effort should be made to create concurrently in Cambodia political, economic and social conditions conducive to the return and harmonious integration of the Cambodian refugees and displaced persons.

7. With a view to ensuring that refugees and displaced persons participate in free and fair elections under international supervision, mass repatriation should commence and be completed as soon as possible after a comprehensive political settlement, taking into account all the political, humanitarian, logistical, technical and socio-economic factors involved, and with the cooperation of the quadripartite interim authority.

8. Repatriation of Cambodian refugees and displaced persons should be voluntary and taken in full possession of the facts. Choice of destination within Cambodia should be that of the individual. The unity of the family must be preserved.

9. Consistent with respect for principles of national sovereignty in the countries of temporary refuge and origin, and in close cooperation with the countries of temporary refuge and origin, full access by UNHCR, ICRC and other relevant international agencies should be guaranteed to all Cambodian refugees and displaced persons, with a view to the agencies undertaking the census, tracing, medical assistance, food distribution and other activities vital to the discharge of their mandate and operational responsibilities; such access should also be provided in Cambodia to enable the relevant international organizations to carry out their traditional monitoring as well as operational responsibilities.

10. In the context of the comprehensive political settlement, the committee noted with satisfaction that the secretary-general of the United Nations has entrusted UNHCR with the role of leadership and coordination among intergovernmental agencies assisting with the repatriation and relief of Cambodian refugees and displaced persons. It also took note of the specific requirements for the planning and various operational phases of the repatriation as outlined in the report of the secretary-general of the United Nations in document CPC/89/C.3/COM.1. The committee looked to all non-governmental organizations to coordinate as much as possible their work for the Cambodian refugees and displaced persons with that of UNHCR.

11. After the comprehensive political settlement the quadripartite interim authority, the governments of the countries in which the Cambodian refugees and displaced persons have sought temporary refuge and the countries which contributed to the repatriation and integration effort will wish to monitor closely and facilitate the repatriation of the returnees. An ad hoc consultative body should be established for a limited term for these purposes. The UNHCR, the ICRC, the international control mechanism and other international agencies as appropriate would be invited to join as full participants.

12. Adequately monitored short term repatriation assistance should be provided on an impartial basis to enable the families and individuals returning to Cambodia to establish their lives and livelihoods harmoniously in their society. These interim measures would be phased out and replaced in the longer term by the reconstruction program.

13. Those responsible for organizing and supervising the repatriation operation will need to ensure that conditions of security are created for the movement of the refugees and displaced persons. In this respect, it is imperative that appropriate border crossing points and routes be designated and cleared of mines and other hazards.

14. The international community should contribute generously to the financial requirements of the repatriation operation.

estimate was 180,000. An UNBRO official attributed the decrease to a combination of factors: more accurate census-taking techniques and departures to Cambodia.

One relief worker estimated that up to 5,000 people left Site 2 in April and May, despite the dangers of landmines and attack by soldiers or bandits. "It has never happened before to such an extent," he told The Washington Post. "And there are still people leaving, much more than before."

The Cambodian police force in Site 2 reportedly has tried to stop the outflow, since it undermines the resistance factions' claim that morale in the camps remains high.

Administration's Cambodia Policies Challenged by Congress In the wake of a Vietnamese withdrawal and in the face of an all-out civil war that could well be won by the Khmer Rouge, a number of congressmen are calling for a reassessment of U.S. policy on Cambodia. That policy, as articulated by Secretary of State James Baker at the Paris conference, states on the one hand, "The United States strongly believes that the Khmer Rouge should play no role in Cambodia's future," and on the other hand, "We are prepared, however, to support Prince Sihanouk should he deem it necessary to accept the inclusion of all Khmer factions in an interim coalition."

The Bush Administration, moreover, has proposed giving lethal aid to the noncommunist resistance factions, despite their political and military alliance with the Khmer Rouge in the tripartite Coalition Government for Democratic Kampuchea.

"That policy," said Sen. Alan Cranston (D-Cal.) at a Senate Asia subcommittee hearing on October 2, "wobbles like Jello. What end is served by American support for a civil war in Cambodia? Do we give guns to Sihanouk so he can combine forces with Pol Pot's Khmer Rouge in attacking Phnom Penh?"

At a House Asia subcommittee hearing two weeks earlier, Assistant Secretary of State for East Asian and Pacific Affairs, Richard H. Solomon called Sihanouk "our horse." "Perhaps he is our horse," said Cranston. "Perhaps we just think he is our horse. He certainly isn't the only one, nor the only means to an end."

Solomon had offered two questions of his own: "Should the Khmer Rouge, responsible for genocidal violence of the 1970s, be totally excluded from the political process with only a military option? Or should it--less its top leadership--be given a limited stake in a transitional political coalition that would, under international supervision," submit to free and fair elections in Cambodia?

Sen. Frank Murkowski (R-Alaska) said there is a "way out of the Cambodian maze. It requires a shotgun marriage between Hun Sen [the Vietnamese-backed prime minister of Cambodia] and Sihanouk." The United States "should make it clear to Sihanouk that he must break with the Khmer Rouge and strike a separate deal with Hun Sen." In return, the United States and its Southeast Asian allies should provide sufficient lethal and nonlethal aid for the noncommunist resistance to stand up to a Khmer Rouge assault, according to Murkowski.

Hun Sen and the noncommunists together "can establish a viable government in Phnom Penh with the political credibility, the military strength, and the international support to cope with the Khmer Rouge," Murkowski said.

But as the talk, or the silence, drags on, the civil war has begun, said Dith Pran, New York Times photographer and focus of "The Killing Fields." "All armies are pressing underage youths into their armies," he said in Senate testimony. "All sides are sending their troops to crush the enemy--which are all Cambodians. Cambodians are being forced by their leaders to go to the killing fields again."

Recent Developments

HOUSE TO MERGE SAFE HAVEN BILLS FOR CHINESE AND CENTRAL AMERICANS

The House Rules Committee will merge two major, controversial bills granting temporary safe haven prior to a vote on the House floor, according to knowledgeable congressional sources.

The bills, H.R. 45, commonly known as the Moakley-DeConcini bill, which would offer temporary safe haven to nationals of El Salvador and Nicaragua, and H.R. 2929, which would offer similar protection to Chinese nationals, will become one bill, retaining the number H.R. 45.

Rep. Bruce A. Morrison (D-Conn.), chairman of the House Subcommittee on Immigration, Refugees, and International Law, had earlier amended H.R. 45 to include more generic language outlining the criteria to be used in granting temporary protected status (see Refugee Reports, Vol. X, No. 6) and had introduced H.R. 2929 with the stated intent of providing a "framework for the future" for other nationalities similarly situated (see Refugee Reports, Vol X, No. 7).

Sources say that the new bill will include the three nationalities; a three-year period of temporary protected status; work authorization; and the requirement of a General Accounting Office study to assess the status of these nationalities in the United States and their conditions and circumstances upon return.

The Rules Committee will decline to include Lebanese nationals in the bill, although a similar measure has been introduced on their behalf (see following story), according to sources. Members of Congress have agreed to look more closely at their situation, to determine how many have been turned down for case-by-case "extended voluntary departure."

H.R. 45 is expected to reach the House floor on October 25.

The Congressional Budget Office estimated that about 60 percent of the 500,000 to one million Salvadorans and Nicaraguans in the United States would choose to register with the INS for temporary protected status. Other sources have estimated that 75,000 to 100,000 Chinese nationals could potentially benefit from H.R. 2929, although most Chinese--including about 40,000 students--are thought currently to have valid nonimmigrant visas.

Nicaraguan Exile Support Gives Bill Added Boost The Moakley/DeConcini bill has been given an added boost recently by the Nicaraguan exile community, which heretofore has been, at best, lukewarm in its support of the measure.

Contra leader Adolfo Calero, standing alongside the bill's liberal author, Rep. Joe Moakley (D-Mass.), endorsed the bill at a Washington press conference in early October. In September, Miami Mayor Xavier Suarez also joined a group of Nicaraguan exile leaders to endorse the bill.

On September 9, the leaders of 14 Nicaraguan exile organizations sent a letter to Sen. Bob Dole (R-Kan.) urging him to support the bill and criticizing the Administration for a "disjointed" policy towards Nicaraguans seeking asylum.

Congressional sources told Refugee Reports that the endorsement by the Nicaraguan community is likely to reverse earlier opposition to the bill from key conservatives in the House. The Bush Administration, however, remains opposed to the bill.

Senate Judiciary Committee to Consider Amendments of Central American Safe Haven Measure On the Senate side, Judiciary Committee business has been bogged down for weeks because of the demand of Sen. Alan K. Simpson (R-Wyo.) for a quorum to hear his views on the DeConcini version of the safe haven bill for Salvadorans and Nicaraguans, S. 458.

At one session, on September 28, Simpson said, "I promised to allow this bill to come forward without a filibuster and this is not a filibuster." However, his demand for the presence of every member of the Judiciary Commitee, the length of his remarks, and six amendments have had the effect of holding up action for weeks.

Simpson's opposition centers on what he terms "two main flaws"--1) that the bill provides a "blanket approach" as opposed to case-by-case determination; and 2) that it is "country specific."

"I object to a blanket status for every Salvadoran and Nicaraguan in the United States regardless of their reasons for being here," he said. The bill would "undercut the Refugee Act of 1980," he said, because it would designate specific countries and cover nationality groups on a blanket basis.

He also expressed the view that "conditions in El Salvador do not warrant" protected status. "Every year that passes, the justification for this bill gets weaker and weaker," Simpson said.

Simpson Introduces Six Amendments On October 26, the Judiciary Committee is expected to consider Simpson's six amendments to the bill. Among other things, the amendments would:

* require the Attorney General to establish "standard profiles" of nationals of El Salvador and Nicaragua who might

be subject to adverse treatment because of their "particular associations or individual activities" and to grant 12 month EVD to those who qualify under the standard profiles;

° prevent the consideration of any bills to adjust the status of aliens receiving temporary protected status;

° and, provide a cut-off date of January 1, 1989 for eligibility for protected status.

TEMPORARY SAFE HAVEN FOR LEBANESE PROPOSED

On September 13, Rep. Mary Rose Oakar (D-Ohio) introduced a bill, H.R. 3267, that would provide temporary protected status for Lebanese nationals in the United States.

Under The Lebanese Temporary Protected Status Act of 1989, Lebanese nationals currently residing in the United States would be allowed to remain for the next two years and would be authorized to work during that time. After two years, the Attorney General would review whether to continue to offer Lebanese nationals extended voluntary departure (EVD) every six months.

In 1976, shortly after the start of the civil war in Lebanon, the Immigration and Naturalization Service issued a directive saying: "In view of the continuing civil strife in Lebanon, INS officers, on a case-by-case basis, should view sympathetically requests for extended voluntary departure received from nationals of Lebanon in the United States who have overstayed, where such requests are based upon compelling humanitarian need." The INS policy statement said, however, that "there is no blanket policy to grant extended voluntary departure in these cases."

In a letter to former U.S. Senator James Abourezk, then-INS Commissioner Alan C. Nelson told him that he would reissue the 1976 directive, but said that, after reviewing the policy, blanket EVD would still not be extended "because of the highly adverse immigration effects of a blanket grant."

Oakar said, "The implementation of this policy is largely at the discretion of the regional INS office and the treatment of this case depends on how sympathetically an individual's case is reviewed by that office." She said that although district directors have the authority to grant EVD for periods up to a year, that such cases are rare.

"In addition," she said, "this program is underutilized because of a deliberate lack of publicity."

"It is very rare for Lebanese to be granted EVD on an individual basis," said Andrew Ansara, director of the Immigration Services Center of the International Institute of Lawrence, Massachusetts. Ansara, himself of Lebanese background, said that asylum is also rarely granted to Lebanese. Only seven percent of Lebanese asylum applicants have had their cases granted from 1983 through 1988.

"People coming over now are telling of terrible events, living in bomb shelters," said Ansara, "and many of those already here have lost their homes and have nothing to go back to."

Simon Horness, the director of international student services at the University of Arizona, told Refugee Reports that "quite a few" Lebanese students emigrate to Canada rather than return home.

The majority however do return home, which is a condition of their J-1 visa status. "Lebanon is not very stable right now," said Horness, who suggested that the two-year, home-country residency requirement of the J-1 visa should be expanded to allow placement elsewhere in the Middle East.

Whatever options Lebanese students choose, said Horness, he favors a blanket EVD policy because "I would like these young men and women to have a choice."

"To stay here [temporarily while conditions in Lebanon are unsettled] doesn't mean they will abandon their country," Horness said.

H.R. 3267 is before the House Judiciary Committee. The Rules Committee declined to add Lebanese to temporary safe haven bills on behalf of Chinese (H.R. 2929) and Central Americans (H.R. 45) that were being merged together (see previous story).

SUIT STANDS CHARGING BIAS AGAINST SALVADORANS AND GUATEMALANS ON ASYLUM AND EVD

American Baptist Church v. Thornburgh, a lawsuit that began in 1985 charging the United States with discriminatory treatment towards Salvadoran and Guatemalan asylum seekers, moved a step forward on September 11 when a federal judge in San Francisco rejected government arguments to dismiss the claim.

U.S. District Judge Robert Peckham also rejected the government's call for summary judgment on the charge of discriminatory application of extended voluntary departure (EVD), the Attorney General's power to withhold deportation for nationals based on dangerous conditions in their home countries.

Marc Van Der Hout, an attorney with the National Lawyers Guild representing the class of Salvadorans and Guatemalans who have unsuccessfully applied for asylum and been denied EVD, called the decision "extremely important."

He said, "We will finally be able to go to trial on the major issue in this case--the fact that Salvadorans and Guatemalans have been denied asylum for political reasons--rather than on the strength of their cases."

The government moved to dismiss the claim that discrimination in adjudicating asylum claims violates the Fifth Amendment right of persons from El Salvador and Guatemala to equal protection of the law because the relief sought would require "supervising the reprocessing of thousands of applications."

The judge found the government's argument "unpersuasive," saying, "The plaintiffs seek an order that defendants prepare a plan guaranteeing fair adjudication. Such relief does not raise the specter of detailed supervision of individual adjudications."

Judge Refuses Summary Judgment on EVD The government provided the court with several letters from high-ranking government officials to members of Congress explaining why EVD was not being granted to Salvadorans and Guatemalans. Those reasons included the fear that such a grant would encourage a floodtide of illegal immigrants, that civil strife was not prevalent throughout El Salvador, that conditions in Guatemala were improving, and that current asylum procedures provide relief for deserving aliens.

Lawyers for the plaintiffs pointed out that the letters were between four and six years old and were not intended for use in a court of law. The judge agreed, saying, "The letters are not sworn declarations and were offered in an explicitly political setting."

Peckham rejected the government's call for summary judgment on the EVD claim, saying that "plaintiffs deserve the opportunity for at least limited discovery before their claims are weighed in the summary judgment motion."

This means that the plaintiffs' lawyers will be able to obtain copies of the government's records and to question government officials about the INS's assertion that the decision to deny EVD for Salvadorans and Guatemalans was not politically motivated and that these nationalities were not treated differently from other nationalities in making the decision.

The judge did side with the government, however, in dismissing a constitutional tort claim based on the plaintiffs' argument that the government's return of refugees to El Salvador and Guatemala places them "in jeopardy of grave harm, including death, serious physical injury, or emotional harm."

Basing its reasoning on a recent Supreme Court decision, Schweiker v. Chilicky, the judge said that when Congress enacts any type of relief--even when it does not redress constitutional infringements--constitutional tort action does not arise.

"The effect of this case in the long term could have tremendous significance," Van Der Hout said, "for the INS will finally be made to comply with Congress's intent when it passed the 1980 Refugee Act to treat all asylum applicants the same no matter what country they come from."

THREAT OF FAMINE RETURNS TO HORN OF AFRICA

Once again, people in Eritrea, Tigray, and southern Sudan face the threat of famine. In Eritrea, according to the Eritrean Relief Committee (ERC), a recent drought has caused major crop failures, exacerbating existing food shortages. In southern Sudan, the threat of renewed fighting also raises fears that famine may return to the area.

In Eritrea, Existing Problems Exacerbated

Before the drought, an estimated 612,000 people in areas held by the Eritrean People's Liberation Front (EPLF) were already receiving food aid. Now, according to the ERC, more than 1.9 million throughout Eritrea are affected by the drought and in need of food aid--1.5 million of them in areas held by the EPLF or in conflict zones that cannot be reached through Ethiopian government channels.

The ERC has issued an urgent alert, asking donors for additional food aid. "The tremendous increase in need has to be brought to the immediate attention of the international community," says ERC's Karen Hauser. According to the World Food Program, food stocks in Eritrea are expected to be exhausted by early 1990, and the food pipeline is virtually empty for the first time since 1984. UNICEF, the United Nations Children's Fund, has also appealed to its national committees for extra aid to Eritrea. According to Hauser, an urgent donor response is needed if a major catastrophe is to be avoided.

The situation may be just as serious in Tigray, virtually all of which is under the control of the Tigray People's Liberation Front, because of the difficulty in reaching those in need.

Threat of Renewed Conflict and Famine in Southern Sudan There is a strong possibility that the current cease-fire between Sudanese government troops and the Sudan People's Liberation Army (SPLA) may break down, leading to resumed fighting in southern Sudan. According to John Pendergast, research associate at Washington's Center of Concern, who has recently visited the area, that could trigger another catastrophic famine in southern Sudan.

In 1988, the disruption of food production and distribution caused by the fighting led to the deaths of an estimated 250,000 people, but an agreement between both parties in the conflict and the United Nations led to the creation of Operation Lifeline, an emergency relief effort that claims to have moved over 100,000 tons of food into affected areas this year and saved the lives of countless southern Sudanese. According to Roger Winter, director of the U.S. Committee for Refugees, "The parties to the conflict have yet to find grounds for compromise, and that raises the possibility that the conflict may be renewed. If that happens, there may be widespread civilian deaths, and an increase in the number of refugees."

PROBLEMS FACED BY AFRICAN AND HAITIAN REFUGEES DISCUSSED AT WASHINGTON CONFERENCE

More than 160 participants from around the country met in Washington, D.C. in September to examine issues concerning African and Haitian refugees and displaced persons. The conference was sponsored by a consortium of five agencies and organized by the National Immigration, Refugee and Citizenship Forum.

The conference opened with comments from Ambassador Jewel Lafontant, U.S. coordinator for refugee affairs, who focused on key aspects of U.S. policy towards African and Haitian refugees. Regarding Africa, Lafontant told the conference that "the cornerstone of our strategy must be to support the generosity of first asylum; to help defray the expenses of protecting and caring for the basic needs of refugees...[and] to help refugees return home if situations will permit."

On Haiti, Lafontant said that an article in a Hong Kong newspaper had raised a question for her about Haiti. The article noted that while the United States was adamant that Hong Kong should not repatriate or deport Vietnamese, it did not apply the same standards to Haitians. "If true," Lafontant said, "If we do have a policy of 'do as I say but not as I do,' if our deeds do not match our words, then it would tend to undercut our policy.... With a good Haitian name like Lafontant, I am interested and have already started to look into it."

Over One-Third of the World's Refugees Are African In the conference's first panel, Roger Winter, director of the U.S. Committee for Refugees, explained that the complexity and severity of problems faced by African refugees, who represent one-third of the world's refugees, is not adequately recognized. This is partly because many refugees, including those who are internally displaced, are "hidden." Among the hidden refugees, Winter cited the 30,000 Somalis in Djibouti, who do not benefit from UNHCR protection and assistance because Djibouti does not recognize them as refugees.

The problems faced by internally displaced persons were also raised by Lance Clark, staff associate at the Refugee Policy Group. Clark said that, in Africa, there are many more internal refugees than there are international ones. However, he added, "Unlike for international refugees, there is no international system in place to assist and protect internal refugees." The failure to recognize their existence and their suffering, he added, "prevents the build-up of outrage that is required to make the changes that are called for."

More Than 20,000 Haitians Interdicted at Sea--Only Six Allowed to Enter the U.S. Jocelyn McCalla, executive director of the National Coalition for Haitian Refugees, reminded the participants that refugees should not be considered in terms of mere numbers and faceless masses of people. "Keep in mind that refugees are individuals," McCalla said, "Individuals with hopes and aspirations" McCalla noted that out of 20,000 Haitian boat people who have been interdicted by the United States at sea, only six have been permitted to enter the United States to pursue asylum claims. "No other group has been singled out for such harsh treatment by the U.S.," McCalla told participants.

Black Refugees, U.S. Immigration Policies, and the Black Community In a keynote speech to the participants, Congressman Bruce A. Morrison (D-Conn.) also spoke on racism in refugee and immigration policies. "The perpetuation of racism after slavery is a stain in American history, and we need to work hard to remove racist elements in U.S. immigration policies," Morrison told participants. "Because of right-wing discrimination against blacks," Morrison added, "Eyes are closed to the persecution Haitians face in their country."

Along similar lines, Arthur Helton, of the Lawyers Committee for Human Rights, said, "Race has always been a component in U.S. immigration policy." Dr. Erku Yimer, executive director of the Ethiopian Community Association of Chicago, added, "The small percentage of refugee admissions from Africa clearly shows the lack of commitment and fairness in the application of its [the United States'] admission policies."

Dr. Sulayman Nyang, director of African studies at Howard University, said, "In the black community, the lack of interest in refugee affairs is due to the present condition of the average African-American... [who] sees the refugee problem as an extraneous issue that does not deserve his attention." To tackle this problem, Dr. Nyang added, "Greater efforts at sensitization must be undertaken." Dr. Calvin Rolark, president of the United Black Fund, argued how important it is for black immigrants, refugees, and exiles to make their case to the black community here. "If the black community in the U.S. and black refugees do not take the lead on these issues," Rolark said, "No one will."

At the end of the conference, participants and speakers alike urged that visibility be given to the issues raised at the conference. Participants called for the building of a support network to accomplish changes, and encouraged the participation of the Congressional Black Caucus.

Update

° September has brought new flows of boats out of Haiti. On August 31, 72 people were interdicted by the U.S. Coast Guard and returned to Haiti on September 1. Several days later, another boat carrying 185 was interdicted and its passengers returned.

On September 14, the Coast Guard interdicted a sailboat carrying 103 Haitians, but was prevented from boarding it for a day, as the passengers protested their return. On September 21, another boat carrying 135 people was interdicted.

All 495 Haitians were returned to Haiti, according to the Immigration and Naturalization Service (INS).

The total number of Haitians interdicted in FY 89 stands at 4,551. Since the beginning of the interdiction program in 1981, 21,369 Haitians have been interdicted, according to the INS. Of that number, the INS says, only 6 persons have been allowed to enter the United States for the purpose of pursuing asylum claims.

On August 31, the *Miami Herald* cited Bruce Brown of the U.S. Information Service in Haiti as saying that U.S. embassy personnel in Port-au-Prince have begun helping Haitian authorities to inspect travel documents of those seeking to leave Haiti by air.

° A total of 346 Cubans have entered the United States by boat or raft so far this year, according to the October 19 Miami Herald. An INS spokesman in Miami was not able to confirm that figure. He told Refugee Reports that the Cubans are initially taken to the Krome Avenue detention facility where they are examined by Public Health officials. They are then processed for exclusion proceedings and released on parole into the Miami community. Normally, no bond is posted. The INS spokesman said that the Cubans generally apply for asylum in the course of exclusion proceedings and that "the overwhelming majority" are granted asylum.

Feature

FEAR AND HOPE IN SOUTHERN AFRICA

[Refugee Reports staff writer Hiram A. Ruiz recently returned from a five week fact-finding trip to southern Africa. Although refugees continue to flee violent conflicts in that region, tentative moves towards peace have also raised some hope. This account, which focuses on Mozambique and Mozambican refugees, is based on an upcoming U.S. Committee for Refugees (USCR) report on refugees in southern Africa.]

In Mozambique, despite the fact that the government and the Mozambican National Resistance (RENAMO) have agreed to talk about peace, fighting continues. More than 100,000 Mozambicans are said to have died as a result of the conflict; countless thousands of children have been orphaned, separated from their families, or kidnapped by RENAMO. An estimated 1.7 million Mozambicans are internally displaced, another 2.9 million are "affected" and at least partially dependent on food aid, and 1.2 million Mozambicans have fled to neighboring countries. Many of the country's schools, hospitals, and other public buildings have been destroyed.

USCR witnessed first-hand some of the devastation caused by RENAMO, and talked to many of its victims. In Tete province, one man explained how RENAMO attacked his village, rounded up the inhabitants, then--in front of all the assembled villagers--cut off both his ears and part of his upper lip, slashed both of his children in the back with axes, then sent him and his family off to the Mozambican authorities with a letter advising them that RENAMO had taken control of the village.

Newly arrived refugee children in Nsanje district, Malawi. Refugees often arrive without any clothes. Women wrap themselves in blankets that are issued to them at the camp; girls use empty food sacks as dresses. Although many of the newly arrived refugees that USCR observed appeared to be in reasonably good health, some of the children had distended stomachs. Photo credit: USCR/H. Ruiz

Living in Fear The lack of security engendered by the conflict permeates every aspect of Mozambican life. Many people are unable to work in their fields because the government cannot guarantee them protection from RENAMO attack. Delivery of food to remote villages and to centers for the internally displaced is made difficult because roads are mined, and convoys of trucks carrying food must have military escorts to deter RENAMO attacks. Throughout much of the country, people live with the fear that they--or their children--might be kidnapped, killed, or maimed.

Every day, the Mozambican press cites the latest RENAMO attacks. During our site visit to Mozambique, there were many examples of this: 6 killed and 15 kidnapped at Doeroi; 14 killed and 20 kidnapped at Massingir and Macia; 1 killed and 40 houses burned at Mabalane; and 11 killed and a number of women and children abducted in Boane district, just 30 kilometers from Maputo.

Mixed Response From Asylum Countries

Mozambicans who have fled to neighboring countries have generally fared better, but even so have met quite different receptions depending on where they fled. In Zambia, where the situation for Mozambican refugees is perhaps the best, the government has given them land on which to grow their own food, and many are self-sufficient. In Zimbabwe, where land and security are politically sensitive issues, refugees are not given land and are forbidden to work. Many are living in crowded, fenced-in refugee camps.

Malawi has generally welcomed the refugees, but the scale of the influx--in some areas refugees outnumber Malawians by three to two--represents an overwhelming burden for the country. USCR was present in Nsanje district only days after the arrival of a new group of refugees. Many had come without any clothes. Women wore blankets that had been issued to them upon arrival, girls used empty food sacks as dresses. Surprisingly, the group included a large number of young men (in most African refugee populations, women and children far outnumber men). A United Nations High Commissioner for Refugees (UNHCR) official explained that this was due in part to RENAMO's practice of primarily abducting women (who are used as cooks, porters, and for forced sex) and children (who are sometimes trained as fighters and forced to participate in RENAMO attacks).

Refugees who fled to South Africa are in the most precarious situation. UNHCR is barred from South Africa, and refugees there live in constant fear of deportation. We were not granted permission to enter South Africa to investigate the plight of Mozambican refugees in that country.

Recent Developments Will Affect Refugees

In recent months, there has been at least a small breakthrough in the Mozambican conflict. The Mozambican government and RENAMO

Benga returnee center, Tete province, Mozambique: this young woman and her family returned to Mozambique from Malawi in May. Her father said that they came back so that they could grow their own food. Even though security in many parts of Mozambique is still poor, and new refugees continue to flee, a significant number of them have returned--an estimated 40,000 to Tete province alone.

USCR/H. Ruiz

have communicated through mediators and, although they have not yet sat down face-to-face to talk about peace, they have taken steps in that direction. While it is far too early to predict what the outcome of that process may be, it is clear that, whatever the outcome, there will be serious implications for all concerned.

If the process breaks down, not only will Mozambique be further ravaged by the conflict, but countries of asylum may not be willing to continue hosting large refugee populations if they see no hope that the refugees will leave. Already, Mozambican refugees face a precarious security situation in South Africa and--to a lesser extent--Zimbabwe. But even in Malawi and Zambia, where they have received a warmer welcome, the mood could swiftly change if peace negotiations fail. According to one UN official in the region, Malawi cannot sustain the pressure of the refugees forever. If there is no solution to the conflict, he said, "There could eventually be pushbacks [of refugees] from Malawi into Mozambique."

Even if the talks succeed, however, and peace were to come to Mozambique, the sudden return of millions of refugees and displaced people to their home areas would create an emergency situation of unprecedented proportions, requiring a major international response.

A Returnee Emergency The returnees would be going back to towns and villages that have been utterly devastated. Their needs would be immense: food, water, health care, agricultural tools, seeds. The Mozambican government has begun to consider this eventuality. Jacinto Veloso, the Mozambican government's minister for cooperation, who is responsible for all programs of assistance to the country's displaced and returnee populations, told USCR: "The government will need to coordinate with UNHCR and host governments to try to plan people's return in order to reduce the negative effects which would ensue if they all returned suddenly." Veloso stressed that international assistance would be crucial when the refugees return home.

UNHCR is also preparing its response. It is drawing up plans for a series of reception centers through which the returnees would pass. Returnees would stay at the centers for 24 hours, receive an aid package consisting of one month's food rations, a tent, tools, and seeds--and then make their way home. The centers would remain open for anywhere from 9 days to 138 days, and process 1,000 to 2,500 returnees per day. The two largest centers would be expected to handle 155,000 and 230,000 returnees in 62 and 92 days respectively.

Getting much-needed assistance for the returnees may not be easy, however. UNHCR is experiencing a major funding crisis that is already affecting services to refugees around the world (see *Refugee Reports*, Vol. X, No. 6). In Malawi, for example, UNHCR says that "plans to replace highly inadequate medical facilities...have had to be cancelled," and "nutritional standards are likely to decline as a result."

Unless financial support for the agency increases significantly, UNHCR's funding crisis is likely to continue into coming years, which could have significant impact on the level of assistance that will be available to Mozambican returnees. Mozambican government officials also fear that "compassion-fatigued" donors may view a peace accord as the end of the problem and overlook post-war needs.

Projects and Programs

SOUTH AFRICAN REFUGEES IN UNITED STATES FACE MANY PROBLEMS, FIND LITTLE SUPPORT

"It is a bitter irony that while there is so much concern in the United States for the plight of black people in South Africa, there are South African refugees suffering in this very country," said Twiggs Xiphu, a South African refugee living in the United States.

The number of South African refugees resettled or who have been granted asylum in the United States is not large in comparison to other refugee groups, and they are not concentrated in any one community. When they face problems, many of them turn for help to the Washington-based, nonprofit African Research and Communications (ARC), one of the few organizations in the United States run by black South Africans.

ARC was set up in 1983 to promote education and training for black South Africans, both in the United States and in South Africa. It works closely with educational institutions in South Africa, helps raise funds for black students and schools in that country, and assists South African refugees in the frontline states. In response to continued requests for help from individual South Africans throughout the United States, however, ARC staff began to provide information, referrals, and telephone counseling--and to document South African refugees' problems in this country.

"The problems are numerous," says Henry Isaacs, ARC's executive director. "They include homelessness, drug abuse, and mental health problems." ARC's findings are not new. In April 1987, Lynn Arditi reported for The Progressive that "in their isolation, many [South Africans] drink heavily.... Anxiety and depression [are] common complaints. Several suicides have claimed the lives of exiles during the last five years."

Isaacs says that while groups opposing apartheid get funding, "black South African refugees, who are the victims of apartheid, cannot get support to help themselves."

Isaacs would like to see a more comprehensive service delivery system to meet the needs of South African refugees. He is confident that there are individuals and agencies around the country who are willing to help. But, to design a service delivery program, Isaacs says research is needed on the numbers of South African refugees in the United States, their location, and their problems--all of which require funds.

Isaacs says that he and other South Africans here plan to continue their search for ways to help their fellow refugees, despite the difficulties they have encountered so far. For more information, contact African Research and Communications, Inc., 1710 Connecticut Ave. NW, Suite 301, Washington, DC, 20009. (202) 659-6466.

Resources

NEW FILM ON CAMBODIA AVAILABLE

"A darkness will settle on the people of Cambodia," goes a prophecy by Buddhist holy men. "There will be houses but no people in them, roads but no travellers upon them. The land will be ruled by barbarians with no religion. Blood will run so deep as to touch the belly of the elephant. Only the deaf and the mute will survive."

These words are recited in the opening frames of "Samsara", a new video on Cambodia, against a silent, slow-motion panorama of a Phnom Penh street crowded with pedicabs, buses, bicycles, and people. The message seems to be that Cambodia, wounded though it may be, has survived, or is at least "in passage from death to life," as one survivor puts it.

But "Samsara" is more meditation than message, drawing on the memories and stories of Cambodians in the United States and in Cambodia, to consider the people and the country today, after two decades in the glare and the shadow of war.

That "the world is suffering" is a basic Buddhist tenet. Likewise, "to meet a hateful man is suffering." During the four-year rule of the Khmer Rouge, the country saw little else but hate and suffering, as more than one million people died as a result of execution, starvation, disease, or overwork.

Now there is suffering of another kind: "How often in the market do we brush against those who tortured us?" says one woman. "Who among us has bloody hands, slipped quietly into life beside us? We are all in search of someone, the child lost, the husband lost."

The film offers a gentle, nonpolemic, but powerful account of the Cambodian past and present. As for the future, it suggests, more in prayer than in prophecy this time, that "blood can be turned into milk."

For more information on "Samsara", a 29 minute video produced and directed by Ellen Bruno, contact her at 171 Old La Honda Road, Woodside CA 94062. (415) 851-2398.

Reader Exchange

° Montefiore Medical Center has an opening for a social worker to provide culturally sensitive mental health care to Southeast Asian refugees in a primary care university-affiliated health center in the Bronx. Contact Clara Genetos, Assistant Director/Social Service, Department of Psychiatry, Montefiore Medical Center, 111 East 210th St., Bronx, New York 10467. (212) 920-4239.

STATES WITH LARGEST SCHOOL ENROLLMENTS OF REFUGEE CHILDREN *

State	Refugee Children	Percent
California	25,859	33.2%
Florida	7,523	9.7
Massachusetts	4,922	6.3
Illinois	3,666	4.7
Texas	3,492	4.5
Washington	2,950	3.8
New York	2,667	3.4
Minnesota	2,459	3.2
Virginia	2,167	2.8
Pennsylvania	2,117	2.7
Rhode Island	1,798	2.3
New Jersey	1,686	2.2
Ohio	1,486	1.9
Michigan	1,452	1.9
All Others	13,610	17.4
TOTAL	77,854	100.0%

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* Elementary school children are counted if they have been in the U.S. for less than two years; secondary school children if they have been in the U.S. for less than three years.

Source: State reports to the U.S. Department of Education (As of March 1988).

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